



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 2] नई दिल्ली, शनिवार, जनवरी 14, 1984/ पाँच 24, 1905
No. 2] NEW DELHI, SATURDAY, JANUARY 14, 1984/PAUSA 24, 1905

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-section (II)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किये गये सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय
(कार्मिक और प्रशासनिक सुधार विभाग)
नई दिल्ली, 27 दिसम्बर, 1983

का०आ० 74.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और अधिसूचना सं० 225/18/81-ए० बी० डी०-2 तारीख 28-5-1981 में उल्लिखित श्री डी० के० सोरल की नियुक्ति को अधिकांत करने हुए, श्री संतोष पाल त्यागी, अधिवक्ता को, जयपुर और जोधपुर स्थित राजस्थान उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापन के मामलों से उत्पन्न अपीलों और अन्य विषयों में उपस्थित होने और उनके संचालन के लिए विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/18/83-ए० बी० डी०-2]

एच० के० वर्मा, अवर सचिव

MINISTRY OF HOME AFFAIRS
(Department of Personnel and Administrative Reforms)
New Delhi, the 27th December, 1983

S.O. 74.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure 1973 (2 of 1974) and in supersession of appointment of Shri D. K. Sora mentioned in notification no 225/18/81-AVD.II dated 28-5-1981, the Central Government hereby appoints Shri Santosh Pal Tyagi Advocate as Special

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Public Prosecutor to appear and conduct appeals and other matters arising out of Delhi Special Police Establishment cases in the Rajasthan High Court at Jaipur and Jodhpur.

[No. 225/18/83-AVD.II]
H. K. VERMA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 23 दिसम्बर, 1983

(आय-कर)

का०आ० 75.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 की उपधारा (23ग) के खण्ड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा, उक्त खण्ड के प्रयोजनार्थ "श्री अग्नीश्वरर टेम्पल, तमिलनाडु" को कर निर्धारण वर्ष 1979-80 से 1983-84 तक के अन्तर्गत आने वाली अवधि के लिए अधिसूचित करती है।

[सं० 5543/फा०सं० 197/85/82-आ०क० (नि० 1)]

MINISTRY OF FINANCE
(Department of Revenue)
New Delhi, the 23rd December, 1983

(INCOME-TAX)

S.O. 75.—In exercise of the powers conferred by clause (5) of sub-section (23C) of section 10 of the Income-tax

(31)

Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Agneeswarar Temple, Tamil Nadu" for the purpose of the said section for the period covered by the assessment years 1979-80 to 1983-84.

[No. 5543/F. No. 197/85/82-IT(AI)]

का०आ० 76.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 की उपधारा (23ग) के खण्ड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा, उक्त खण्ड के प्रयोजनार्थ "अरुलमिधु दंडयुत-पाणिस्वामी तीरुकोइल, पलानी" को कर-निर्धारण वर्ष 1983-84 से 1987-88 तक के अन्तर्गत आने वाली अवधि के लिए अधिसूचित करती है।

[सं० 5544/फा०सं० 197-क/83/82-आ०क० (नि० 1)]

S.O. 76.—In exercise of the powers conferred by clause (v) of sub-section (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Arulmighu Dhandayuthapaniswamy Thirukoil, Palani" for the purpose of the said section for the period covered by the assessment years 1983-84 to 1987-88.

[No. 5544/F. No. 197-A/83/82-IT(AI)]

का०आ० 77.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 की उपधारा (23ग) के खण्ड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा, उक्त खण्ड के प्रयोजनार्थ "श्री सत गुरुनाथ स्वामी देवस्थानम्, तमिलनाडु" को कर निर्धारण वर्ष 1979-80 से 1983-84 तक के अन्तर्गत आने वाली अवधि के लिए अधिसूचित करती है।

[सं० 5545/फा०सं० 197/97/82-आ०क० (नि० 1)]

S.O. 77.—In exercise of the powers conferred by clause (v) of sub-section (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Sath Gunanatha Swami Devasthanam, Tamil Nadu" for the purpose of the said section for the period covered by the assessment years 1979-80 to 1983-84.

[No. 5545/F. No. 197/97/82-IT(AI)]

का०आ० 78.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 की उपधारा (23ग) के खण्ड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, उक्त खण्ड के प्रयोजनार्थ, "(i) श्री शारदा मठ, कलकत्ता और (ii) रामकृष्ण शारदा मिशन, कलकत्ता" को कर निर्धारण वर्ष 1985-86 और 1986-87 के अन्तर्गत आने वाली अवधि के लिए अधिसूचित करती है।

[सं० 5547/फा०सं० 197क/76/82-आ०क० (नि०-1)]

S.O. 78.—In exercise of the powers conferred by clause (v) of sub-section (23C) of section 10 of the Income-tax Act 1961 (43 of 1961), the Central Government hereby notifies "(i) Sri Sarada Math, Calcutta and (ii) Ramakrishna Sarada Mission, Calcutta" for the purpose of the said section for the period covered by the assessment years 1985-86 and 1986-87.

[No. 5547/F. No. 197A/76/82-IT(AI)]

का०आ० 79.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 की उपधारा (23ग) के खण्ड

(5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, उक्त खण्ड के प्रयोजनार्थ, "श्री साई वात्रा संस्थान शिरडी" को कर निर्धारण वर्ष 1983-84 से 1985-86 के अन्तर्गत आने वाली अवधि के लिए अधिसूचित करती है।

[सं० 5548/फा०सं० 197/64/83-आ०क० (नि०-1)]

S.O. 79.—In exercise of the powers conferred by clause (v) of sub-section (23C) of section 10 of the Income tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Shri Sai Baba Sansthan Shirdi" for the purpose of the said section for the period covered by the assessment years 1983-84 to 1985-86.

[No. 5548/F. No. 197/64/83-IT(AI)]

नई दिल्ली, 27 दिसम्बर, 1983

(आय-कर)

का० आ० 80.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 80छ की उपधारा (2)(ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा श्री आरुल मिधु मरधावन्दु स्वामी मन्दिर, विरिजी-पुरम, नार्थ अर्कोट जिला (तमिल नाडु) को, संपूर्ण तमिल नाडु राज्य में प्रसिद्ध सार्वजनिक पुजा स्थल अधिसूचित करती है।

[सं० 5550/फा० सं० 176/67/83-आ०क० (नि०-1)]

आर० के० तिवारी, अवर सचिव

New Delhi, the 27th December, 1983

(INCOME-TAX)

S.O. 80.—In exercise of the powers conferred by sub-section (2)(b) of Section 80G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies Sri Arulmigu Marghabandu Swamy Temple, Virinjipuram, North Arcot District (Tamil Nadu) to be a place of Public Worship of renown throughout the State of Tamil Nadu.

[No. 550/F. No. 176/67/83-IT(AI)]

R. K. TEWARI, Under Secy.

नई दिल्ली, 14 जनवरी, 1984

सं. 4/84-सीमा-शुल्क

का. आ. 81.—केन्द्रीय सरकार, सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 7 के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के वित्त मंत्रालय (राजस्व और बीमा विभाग) की अधिसूचना सं. 75/75-सीमाशुल्क, तारीख 3 जुलाई, 1975 का निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना से उपावद्ध सारणी में, क्रम सं. 2 के सामने, स्तंभ 3 में, मद (क) में, उपमद (2) के पश्चात् निम्न-लिखित उपमद अंतःस्थापित की जाएगी, अर्थात् :—

“(3) सिंथेटिक बहुमूल्य और अल्पमूल्य रत्न, और” ।

[फा. सं. 481/82/81-सी.सू. 7]

टी. एच. के. गौरी, अवसर सचिव

New Delhi, the 14th January, 1984

No. 4/84-CUSTOMS

S.O. 81.—In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No. 75/75-Customs, dated the 3rd July, 1975, namely:—

In the Table annexed to the said notification against Serial No. 2, in column 3, in item (a), after sub-item (ii), the following sub-item shall be inserted, namely:—

“(iii) synthetic precious and semi-precious stones, and”.

[F. No. 481/82/81-CUS.VII]

T.H.K. GHOURI, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 24 दिसम्बर, 1983

का० आ० 82.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 के खण्ड 8 के उपखण्ड (1) के साथ पठित खण्ड 3 के उपखण्ड (क) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् 26 दिसम्बर, 1983 से आरम्भ होने वाली तथा 25 दिसम्बर, 1986 को समाप्त होने वाली और अवधि के पश्चात् श्री आर० सी० मुनेजा को न्यू बैंक आफ इंडिया के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है ।

[सं० फा० 9/26/83-बी०ओ०-1]

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 24th December, 1983

S.O. 82.—In pursuance of sub-clause (a) of clause 3 read with sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government after consultation with the Reserve Bank of India, hereby appoints Shri R. C. Sunjeja, as a whole-time Director (designated as the Executive Director) of the New Bank of India for a further period commencing on 26th December, 1983 and ending with 25th September, 1986.

[No. F. 9/26/83-BO.I]

का० आ० 83.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उपधारा

(1) के खण्ड (ड) के उपखंड (ii) के अनुसरण में केन्द्रीय सरकार पश्चात् श्री वी० एन० नाडकर्णी, अध्यक्ष, भारतीय स्टेट बैंक, बंबई को श्री आर० पी० गोंयल के स्थान पर भारतीय निर्यात-आयात बैंक के निदेशक मण्डल में निदेशक के रूप में मनोनीत करती है ।

[संख्या 9/22/83-बी०ओ०-1]

S.O. 83.—In pursuance of sub-clause (ii) of clause (c) of sub-section (1) of section 6 of the Export-Import Bank of India Act, 1981 (28 of 1981), the Central Government hereby nominates Shri V. N. Nadkarni, Chairman, State Bank of India, Bombay as a Director of the Board of Directors of the Export-Import Bank of India vice Shri R. P. Goyal.

[No. F. 9/22/83-BO.I]

नई दिल्ली, 29 दिसम्बर, 1983

का० आ० 84.—भारतीय स्टेट बैंक (अनुपंगी बैंक) अधिनियम, 1959 (1959 का 28) की धारा 36 की उपधारा (2क) के साथ पठित धारा 25 की उपधारा (1) के खण्ड (गक) के अनुसरण में केन्द्रीय सरकार पश्चात् श्री स्टेट बैंक आफ हैदराबाद, प्रधान कार्यालय, हैदराबाद के विशेष सहायक श्री ची० ईश्वर राव को जो कि कर्मकार है, स्टेट बैंक आफ हैदराबाद के कर्मचारियों में से 29 दिसम्बर, 1983 से प्रारम्भ होने वाली और 28 दिसम्बर, 1986 को समाप्त होने वाली तीन वर्ष की अवधि के लिए स्टेट बैंक आफ हैदराबाद के बोर्ड में निदेशक नियुक्त करती है ।

[संख्या ए० 8/3/83-बी०ओ०-1]

च० बा० मीरचन्दानी, उप सचिव

New Delhi, the 29th December, 1983

S.O. 84.—In pursuance of clause (ca) of sub-section (1) of section 25 read with sub-section (2A) of section 26 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government hereby appoints Shri Ch. Eswara Rao, Special Assistant, State Bank of Hyderabad, Head Office, Hyderabad as a director on the Board of the State Bank of Hyderabad from among the employees of the State Bank of Hyderabad who are workmen for a period of three years commencing on December 29, 1983 and ending with December 28, 1986.

[No. F. 8/3/83-BO.I]

C. W. MIRCHANDANI, Dy. Secy.

नई दिल्ली, 24 दिसम्बर, 1983

का० आ० 85.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर यह घोषित करती है कि उक्त अधिनियम की धारा 9 के प्रावधान सर्वे सं० 2082, पंचायत मुद्रित के सामने, कुम्बुस गेड, उद्योग-पल्लव की शृङ्खला भूमि के 25 सेन्टवाली गैर बैंकिंग आस्तियों

धारण करने वाले उथमापलयम को-ऑपरेटिव अर्बन बैंक लि०, उथमापलयम को इस अधिसूचना के राजपत्र में प्रकाशित होने की तारीख से 30 अप्रैल, 1984 तक की अवधि के लिए लागू नहीं होंगे।

[संख्या 8-5/83-ए० सी०]

New Delhi, the 24th December, 1983

S.O. 85.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Section 9 of the said Act shall not apply to the Uthamapalayam Co-operative Urban Bank Ltd., Uthamapalayam, so far as they relate to its holding of a non-banking asset comprising of 25 cent of Dry Land, Survey No. 2082 opposite Panchayat Union, Cumbum Road, Uthamapalayam, District Madurai for the period from the date of publication of this notification in the Gazette of India to 30 April 1984.

[No. 8-5/83-AC]

का०आ० 86.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा यह घोषित करती है कि उक्त अधिनियम की धारा 9 के प्रावधान भदुराई जिले के अल्लिनगरम ग्राम में स्थित (1) आर०एस० 1466/एस-1.77 एकड़ पंजा (2) आर०एस० 235/1-0.16 सट हाऊस साईट और (3) आर०एस० 2285/2-1.09 एकड़ पंजा ओल्ड हाऊस जोर सं० 69 नयी सं० 14 की गैर बैंकिंग आस्तियां धारण करने वाली थेनी को-ऑपरेटिव अर्बन बैंक लि०, थेनी, जिला मडुराई तमिलनाडु को इस अधिसूचना के राजपत्र में प्रकाशित होने की तारीख से 31 दिसम्बर, 1983 तक की अवधि के लिए लागू नहीं होंगे।

[संख्या 8-5/83-ए०सी०]

S.O. 86.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Section 9 of the said Act shall not apply to the Theni Co-operative Urban Bank Ltd., Theni, Madurai District, Tamil Nadu so far as they relate to its holding of a non-banking assets situated in Allinagaram Village of Madurai District at (1) R.S. 1466/S=1.77 acres punja, (2) R.S. 235/1=0.16 cents house site and (3) R.S. 2285/2=1.09 acres punja, old house door No. 69 New No. 14 for the period from the date of publication of this notification in the Gazette of India to 31st December, 1983.

[No. 8-5/83-AC]

का०आ० 87.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भार-

तीय रिजर्व बैंक की सिफारिश पर एतद्वारा यह घोषित करती है कि उक्त अधिनियम की धारा 9 के प्रावधान सी एम सी, वाई, हास्पेट में स्थित हाऊस नं० 160/13वां वाई और (2) हाऊस सं० 39/17 की गैर बैंकिंग आस्तियां धारण करने वाले होस्पेट को-ऑपरेटिव सिटी बैंक लि०, होस्पेट को इस अधिसूचना के राजपत्र में प्रकाशित होने की तारीख से 30 अप्रैल, 1988 तक की अवधि के लिए लागू नहीं होंगे।

[संख्या 8-5/83-ए० सी०]

अमर सिंह, अवसर सचिव

S.O. 87.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Section 9 of the said Act shall not apply to the Hospet Co-operative City Bank Ltd., Hospet so far as they relate to its holding of a non-banking asset viz. (1) House No. 160/13th ward and (2) House No. 30/17 both situated in Ward CMC, Hospet, for the period from the date of publication of this notification in the Gazette of India to 30th April, 1988.

[No. 8-5/83-AC]

AMAR SINGH, Under Secy.

शेयर बाजार प्रभाग

नई दिल्ली, 28 दिसम्बर, 1983

का० आ० 88.—भारतीय यूनिट ट्रस्ट अधिनियम, 1963 (1963 का 52) की धारा (10) के खण्ड (क) के अनुसरण में, केन्द्रीय सरकार भारतीय औद्योगिक विकास बैंक के परामर्श से श्री एम० जे० फेरवानी को, 1 जनवरी, 1984 से आरंभ होने वाली तथा 31 दिसम्बर, 1988 को समाप्त होने वाली अवधि के लिए, एतद्वारा, भारतीय यूनिट ट्रस्ट के चेयरमैन के पद पर नियुक्त करती है।

[संख्या एफ. 11/20/एस० ई०/83]

नीतीश सेन गुप्त, संयुक्त सचिव.

(Stock Exchange Division)

New Delhi, the 28th December, 1983

S.O. 88.—In pursuance of clause (a) of Section (10) of the Unit Trust of India Act, 1963 (52 of 1963), the Central Government hereby appoints, in consultation with the Industrial Development Bank of India, Shri M. J. Phorwani as the Chairman of the Unit Trust of India for the period commencing on the 1st January, 1984 and ending with the 31st December, 1988.

[No. F. 11/20/SE/83]

N. K. SENGUPTA, Jt. Secy.

(बैंकिंग विभाग)

नई दिल्ली, 29 दिसम्बर, 1983

का० आ० 89.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की

सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खण्ड (ग) के उपखण्ड (i) और (ii) के उपबंध 20 दिसम्बर, 1984 तक की अवधि के लिए बैंक आफ अमरीका पर उस सीमा तक लागू नहीं होंगे, जहां तक ये उपबंध भारत में इसके मुख्य कार्यालय अधिकारी के भारतीय औद्योगिक ऋण तथा निवेश निगम लिमिटेड के निदेशक होने पर इस लिए पाबंदी लगाते हैं कि वह, कम्पनी अधिनियम, 1956 (1956 का 1) के अंतर्गत पंजीकृत एक कम्पनी है, और (ख) उक्त अधिनियम की धारा 19 की उपधारा (3) के उपबंध 20 दिसम्बर, 1984 तक की अवधि के लिए बैंक आफ अमरीका पर उस सीमा तक लागू नहीं होंगे, जहां तक उपबंध उक्त बैंक के भारतीय औद्योगिक ऋण तथा निवेश निगम लिमिटेड की शेयर धारिता पर पाबंदी लगाते हैं।

[सं० 15 29/83-बी०आ०-III]

एन० डी० बत्रा, अवर सचिव

(Banking Division)

New Delhi, the 29th December, 1983

S.O. 89.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that (a) the provisions of sub-clauses (i) and (ii) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Bank of America for a period upto the 20th December, 1984 insofar as the said provisions prohibit its Chief Executive Officer in India to function as a Director on the Board of the Industrial Credit and Investment Corporation of India Ltd., being a company registered under the Companies Act, 1956 (1 of 1956) and that (b) the provisions of sub-section (3) of Section 19 of the said Act shall not apply to Bank of America for a period upto the 20th December, 1984 insofar as the said provisions prohibit it from holding shares in the Industrial Credit and Investment Corporation of India Ltd.

[No. 15/29/83-B.O.III]

N. D. BATRA, Under Secy.

केन्द्रीय उत्पादन शुल्क समाहृतलय, इलाहाबाद

समाहृतलय अधिसूचना सं० 4/1983

इलाहाबाद, 13 दिसम्बर, 1983

विषय :—के०उ०शु० केन्द्रीय उत्पादन शुल्क नियमावली, 1944 के अधीन समाहर्ता की शक्तियों को सौंपना।

का० आ० 90.—केन्द्रीय उत्पादन शुल्क नियमावली, 1944 के नियम 5 के अधीन निहित शक्तियों का प्रयोग करते हुये, मैं इसके द्वारा केन्द्रीय उत्पादन शुल्क नियमावली, 1944 के नियम 173 पी०पी० (5) एवं 173 पी०पी०पी० (6) के अधीन समाहर्ता की शक्तियों को इस समाहृतलय के केन्द्रीय उत्पादन शुल्क मण्डल के प्रभारों सहायक समाहर्ता को अपने क्षेत्राधिकार के अन्तर्गत प्रयोग करने के लिये सौंपता हूँ।

[का०सं०-चार(16)175-मिति 183]

आर०के० चक्रवर्ती, समाहर्ता

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, ALLAHABAD

Collectorate Notification No. 4/1983

Allahabad, the 13th December, 1983

Subject :—C.E. Delegation of Collector's power under Central Excise Rules, 1944—

S.O. 90.—In exercise of the powers vested in me under Rule 5 of Central Excise Rules, 1944, I hereby delegate the Collector's powers under rules 173 PP(5) and 173 PPP(6) of the Central Excise Rules, 1944 to the Assistant Collector of Central Excise, Incharge of Divisions in this Collectorate, to be exercised within their respective jurisdiction.

[F. No. IV(16)175-Pol/83]

R. K. CHAKRABARTI, Collector

वार्णिज्य मंत्रालय

नई दिल्ली, 14 जनवरी, 1984

का०आ० 91.—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा मैसर्स पेस्ट मार्टम (भारत) प्राइवेट लिमिटेड, 53-1-16, मैकावन सेंट, जगनायकपुर, काकीनाडा-2 को निम्नलिखित मदों के धुन्नीकरण के लिए अभिकरण के रूप में एक वर्ष की और अवधि के लिए मान्यता देती है :

1. तेल रहित चावल की भूसी, तथा
2. पिसी हुई हड्डियाँ, खुर तथा सींग।

[फाइल सं० 5(3)/83-ईआईएण्ड ईपी]

MINISTRY OF COMMERCE

New Delhi, the 14th January, 1984

S.O. 91.—In exercise of the powers conferred by Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) the Central Government hereby recognises for a further period of one year M/s. Pest Mortem (India) Pvt. Ltd., 53-1-16, Mekavan St. Jagannalkpur, Kakinada-2, as an agency for the fumigation of following items :—

1. De-oiled Rice Bran; and
2. Crushed Bones, Hooves and Horns.

[F. No. 5(3)/83-EI&EP]

C. B. KUKRETI, Jt Director

नई दिल्ली, 14 नवम्बर, 1984

का०आ० 92.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मेटक की प्रशिक्षित टांगों का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1979 में और आगे संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम मेटक की प्रशिक्षित टांगों का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) संशोधन नियम, 1984 है,

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. मेंडक की प्रशीतित टांगों का निर्यात (व्यापारिक नियंत्रण और निरीक्षण) नियम, 1979 में,

(1) नियम 3 में—

(क) “शीर्षक” “ब” प्रसंस्करण यूनिटों की अपेक्षाएं के नीचे :—

(i) प्रारम्भिक पैरा के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् : “अधिकरण द्वारा अनुमोदित प्रसंस्करण एकक ही निर्यात के लिए प्रशीतित मेंडक की टांगों का प्रसंस्करण करने के पात्र होंगे। मछली तथा मछली से बने उत्पादों का प्रसंस्करण करने के लिए अधिकरण द्वारा अनुमोदित एककों को भी निर्यात के लिए मेंडक की टांगों का प्रसंस्कृत करने की अनुमति दी जाएगी यदि उनके पास कच्ची सामग्री प्राप्त करने वाले कक्ष, प्रसंस्करण हॉल तथा आवश्यक उपकरण अलग-अलग हैं। ऐसे अनुमोदन के लिए अहित होने के लिए एकक के पास नीचे विनिर्दिष्ट न्यूनतम सुविधाएं होनी चाहिए”,

(ii) पैरा 2 में, उप-पैरा (ड) के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात्—

“(ड) जहां कहीं भी प्रसंस्करण एकक में कंठिग केन्द्र संलग्न है, वहां वह वैसी ही सफाई संबंधी अपेक्षाओं के अधीन होगा जैसा कि प्रसंस्करण एकक के लिए होती है”,

(iii) पैरा 3 में, उप-पैरा (ड) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्—

“(ड) पर्श और दीवारों के जोड़ गोल होंगे जिससे कि सफाई आसानी से की जा सके। तथापि, विद्यमान एककों पर यह खण्ड लागू नहीं होगा”,

(iv) पैरा 5 में उप-पैरा (ख) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“(ख) सभी प्रकार के प्रकाश बल्य फिफ्स-चर सुरक्षात्मक प्रकार के होंगे जिनमें रक्षक आवरण होगा जिससे कि टूटने की दशा में उत्पाद को संदुषित होने से रोका जा सके।”;

(V) पैरा 8 में, उप पैरा (क) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“(क) शीतगार की अवस्थिति और डिजाइन इस प्रकार का होगा कि वह सम्पूर्ण स्थापन के साधारण अभिव्यास से स्वीकृत

होगा और उसका संचालन सम्पूर्ण प्रचालन के प्रवाह क्रम में सम्मिलित होगा 2 विद्यमान एककों के मामले में एकक के पास उपलब्ध शीतगार स्वीकृत होंगे।”

(ख) (i) (ख) मेंडक की टांगों की प्रसंस्करण एककों अथवा कंठिग केन्द्रों का अनुमोदन” शीर्षक के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“ख, प्रसंस्करण एककों का अनुमोदन।”

(ii) पैरा एक में, उप-पैरा (ख) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“(ख) ऐसी सूचना प्राप्त होने पर अधिकरण के अधिकारी प्रसंस्करण एकक में यह देखने के लिए जाएंगे कि एकक में प्रसंस्करण की सुविधा के हैं या नहीं”;

“ग, प्रसंस्करण” शीर्षक के नीचे —

(ग) (i) पैरा (3) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“(3) कच्ची सामग्री का चयन और उसका पश्चात्तर्ती प्रसंस्करण पैकिंग और भण्डारकरण किन्हीं सक्षम कर्मचारियों के पर्यवेक्षण के अधीन किया जाएगा”;

(ii) पैरा (6) में, उप-पैरा (क) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“(क) जीवन मेंडक का मिर कण्ठिग के एकदम नीचे से काटा जाएगा और उसके ठीक पश्चात् पाण्ड टांगे कमर से 2.5 से 3 मीट्रीमीटर से अनधिक की दूरी से उदर में काटी जाएंगी”;

(iii) पैरा (6) में, उप-पैरा (ख) के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात् :—

“(ख) मेंडक का कटा हुआ मिर तथा उदर तुरन्त ही हटा दिया जाएगा तथा यह सुनिश्चित किया जाएगा जिससे कि पाचन नाल का कोई भी भाग टांगों के सम्पर्क में न आए”;

(iv) पैरा (6) में उप-पैरा (ग) के नीचे उप-पैरा (ख) तथा (ग) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“(ग) इस प्रकार परिरक्षित सामग्री 2 डिग्री सेंटीग्रेड या इससे कम पर शीत कक्ष या वर्क के पानी में अस्थायी रूप से रखी जाएगी”;

“(घ) टांगें—40 डिग्री सेंटीग्रेड पर या उससे कम तापमान पर शीघ्र प्रशीतित की जाएंगी तथा शीघ्र ही—10 डिग्रीग्रेड या कम तापमान वाले शीतगार में स्थानान्तरित कर दी जाएंगी”;

(घ) “घ. निरीक्षण की प्रक्रिया” शीर्षक के नीचे—

(i) पैरा (1) में उप-पैरा (घ) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“(क) इन नियमों के अधीन निरीक्षण करने के प्रयोजन के लिए एक ही प्रकार तथा श्रेणी का एक दिन का उत्पादन एक नियंत्रण एकक का गठन करेगा”;

(ii) पैरा (9) में, उप-पैरा (ग) में “(ग)” कोष्ठक और अक्षर के स्थान पर “4” अंक रखा जाएगा।

2. उपाबंध—II में—

(i) मद 1 के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात् :—

“1. मेंढक की टांग दो प्रकार की होंगी, अर्थात् :—

(i) सफेद या हाथी दांत जैसी सफेद जिसके अंतर्गत हल्की गुलाबी तथा हल्की भुरी (ii) हल्की नीली”;

(ii) “संकेतन” शीर्षक के अधीन “एफ ई एल” संक्षेपाक्षर को निम्नलिखित रूप से पढ़ा जाएगा : “एफ एफ एल” जहां भी लागू होता हो।

[सं० 6(10)/77 ई० आई० एण्ड ई० पी०]
सी० बी० कुररेती, संयुक्त निदेशक

पाद टिप्पणः

का० आ० 1890 तारीख 9-6-1979

S.O. 92.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules further to amend the export of Frozen Froglegs (Quality Control and Inspection) Rules, 1979, namely :—

1. (1) These rules may be called the Export of Frozen Froglegs (Quality Control and Inspection) Amendment Rules, 1984.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Export of Frozen Froglegs (Quality Control and Inspection) Rules, 1979.

(1) in rule 3—(a) Under the heading “A. Requirements of processing units” :—

(i) For the opening paragraph, the following shall be substituted namely :—

“Only those of the processing units approved by the Agency shall be eligible for processing frozen froglegs for export. The units approved by the Agency for processing fish and fishery products shall also be allowed to process froglegs for export if the unit is having separate raw material receiving section, processing hall and necessary equipments. A unit to qualify for such approval shall have the minimum facilities as specified below.”;

(ii) in paragraph 2, for sub-paragraph (e), the following shall be substituted, namely :—

“(e) Wherever, the cutting centre is attached to the processing unit, it shall be subject to the same sanitary requirements, as the processing unit.”;

(iii) in paragraph 3, for sub-paragraph (e), the following shall be substituted, namely :—

“(e) The floor and wall functions may be rounded off to facilitate easy cleaning. However, for the existing units, this clause shall not be insisted upon.”;

(iv) in paragraph 5, for sub-paragraph (b), the following shall be substituted, namely :—

“(b) All types of light bulbs and fixtures shall be of safety type, having protective covering so as to prevent contamination of the product in the event of breakage.”;

(v) in paragraph 8, for sub-paragraph (a), the following shall be substituted, namely :—

“(a) The location and design of the cold storage should be such that it is integrated to the general lay out of the whole establishment and its operation incorporated into the flow pattern of the overall operation. Cold storage available adjacent to the unit may be acceptable in the case of existing unit.”;

(b) (i) For heading “B. Approval of Processing Unit or Cutting Centres of Froglegs”, the following shall be substituted, namely :—

“B. Approval of Processing Units.”;

(ii) in paragraph 1, for sub-paragraph (b) the following shall be substituted, namely :—

“(b) on receipt of such information, the agency officers shall visit the processing unit in order to adjudge the facilities for processing in the unit.”;

(c) Under the heading “C. Processing”—

(i) for paragraph (3), the following shall be substituted, namely :—

“(3) The selection of raw material and its subsequent processing, packing and storage till export shall be carried out under the supervision of a competent personnel.”;

(ii) in paragraph (6), for sub-paragraph (a), the following shall be substituted, namely :—

“(a) The head of live frogs shall be cut off below the ear-drum and immediately after that hind legs shall be cut at the abdomen not more than 2.5 to 3 cms from the waist.”;

(iii) in paragraph (6), for sub-paragraph (b), the following shall be substituted, namely :—

“(b) The cut head and abdomen of the frogs shall be disposed of immediately and it shall be ensured that no portion of the alimentary tract comes in contact with the legs.”;

(iv) in paragraph (6), for sub-paragraphs (b) and (c) below the sub-paragraph (j), the following shall be substituted, namely :—

“(k) The material thus preserved shall be temporarily kept in a chill room or in ice water at 2 degree C or below.”

“(l) The legs shall be quick-frozen at or below -40 degree C and be transferred immediately to a cold storage maintained at or below -10 degree C”;

(d) Under the heading “D. Procedure of Inspection.”

(i) in paragraph (i), for sub-paragraph (a), the following shall be substituted, namely :—

“(a) For the purpose of inspection under these rules, a day's production of one type and grade shall constitute a control unit”;

(ii) in paragraph (9), in sub-paragraph (c), for brackets and letter “(c)”, the figure “4” shall be substituted.

(2) in Annexure-II—

(i) For item 1, the following shall be substituted, namely :—

"1. Froglegs shall be of two types, namely (i) white or ivory white including light pink and light brown (ii) light blue."

(ii) Under the heading Coding, the abbreviation of "Fel" will be read as :
"FFI" wherever applicable.

[No. 6(10)/77-EI&EP]

C. B. KUKRETI, Jt. Director

Foot Note :

S.O. 1890 dated 9-6-1979

संयुक्त मुख्य नियंत्रक, आयात एवं निर्यात का कार्यालय

नई दिल्ली अधिदेश

कलकत्ता, 12 सितम्बर, 1983

का० आ० 93:—संलग्न सूची में निर्दिष्ट वस्तुओं के आयात के लिए मैसर्स ब्रैलिस कन्ट्रोल लिमिटेड, 2 ट्रान्सपोर्ट डिपो रोड, कलकत्ता-700027 को अप्रैल, 81 से मार्च 82 की अवधि के दौरान 86,02,000-रुपए (छियासी लाख दो हजार रुपए) का एक आज्ञा पत्र संख्या पी०/डी०/2229367/सी०/86/सी०/XX/82 स्वीकृत किया गया था।

फर्म ने आयात निर्यात, क्रिया-विधि, 1983-84 की पुस्तिका के पैरा-353 के अन्तर्गत जैसा कहा गया है, उसके अनुसार, उपर्युक्त पुस्तिका में निर्दिष्ट परिशिष्ट-20 के रूप में, एक शपथ पत्र प्रस्तुत किया है, जिसमें उन्होंने कहा है कि 86,02000 रुपए के (छियासी लाख दो हजार रुपए के) आज्ञा पत्र संख्या पी०/डी०/2229367/सी०/XX/86/सी०/82 दिनांक 7-3-82 की विनियम नियन्त्रण प्रति उनके बैंकर्स के द्वारा पंजीकृत होने तथा साख पत्र को खोलने से पहले ही बिना किसी प्रकार का उपयोग किए ही खो गयी है।

मैं संतुष्ट हूँ कि उपर्युक्त आज्ञा पत्र की विनियम नियन्त्रण की मूल प्रति खो गयी है। आयात (निर्यात), 1955 संशोधित अधिनियम के उपवाक्य 9 (डी०) के अन्तर्गत निर्दिष्ट शक्तियों का उपयोग करते हुए आज्ञा पत्र संख्या पी०/डी०/2229367/सी०/XX/86/सी०/82 दिनांक 7-3-83 की विनियम प्रति को निरस्त कर दिया गया है।

860200-रुपए (छियासी लाख दो हजार रुपए) के आयात आज्ञा पत्र संख्या पी०/डी०/2229367/सी०/XX/86/सी०/82 दिनांक 7-3-83 की एक दूसरी विनियम नियन्त्रण प्रति आयात-निर्यात, क्रिया विधि 1983 की पुस्तिका में निर्दिष्ट प्रावधान के अनुसार लाइसेंस की कुल लागत बीमा-भाड़ा मूल्य की सीमा तक जारी की जा रही है।

[सं० डु०/लाइसेंस/जे० सी० सी० आई० एण्ड ई० कलकत्ता/3/
आई० पी० एण्ड सी०]

एम० मुखर्जी

उप मुख्य नियंत्रक, आयात एवं निर्यात
कृते संयुक्त मुख्य नियंत्रक, आयात एवं निर्यात

OFFICE OF THE JT. CHIEF CONTROLLER OF IMPORTS AND EXPORTS

CANCELLATION ORDER

Calcutta, the 12th September, 1983

S.O. 93.—M/s. Belles Controls Ltd., 2, Transport Depot Road, Calcutta-700 027 were granted Licence No. P/D/2229367/C/XX/86/C/82 dated 7-3-83 during April, 1981 to March, 1982 period for Rs. 86,02,000 allowing import of items as per the list attached thereto.

The firm have filed an affidavit as required under Para-353 of the Hand Book of Import-Export Procedures, 1983-84 in the form as per Appendix-20 of the said Hand Book wherein they have stated that Exchange Control Copy of Licence No. P/D/2229367/C/XX/86/C/82 dated 7-3-82 for Rs. 86,02,000 issued for April, 1981—March, 1982, period has been misplaced without having been utilised at all by way of registration with their bankers and by way of opening any Letter of Credit.

I am satisfied that the original Exchange Control Copy of the said licence has been misplaced.

In exercise of the powers conferred on me under Clause-9(d) of Import (Control), 1955 as amended, the said Exchange Control Copy of Licence No. P/D/2229367/C/XX/86/C/82 dated 7-3-83 is cancelled.

A duplicate Exchange Control Copy of Import Licence No. P/D/2229367/C/XX/C/82 dated 7th March, 1983 for Rs. 86,02,000 is being issued to the total C.I.F. of the Licence in accordance with the provisions of the Hand Book of the Import-Export Procedures, 1983-84.

[No. Dup./Lic./ICCI&E/CAL/3/JP&C]

S. MUKHERJEE, Dy. Chief Controller of Imports & Exports, for Jt. Chief Controller of Imports & Exports.

मुख्य नियंत्रक, आयात एवं निर्यात का कार्यालय

आदेश

नई दिल्ली, 17 दिसम्बर, 1983

का०आ० 94:— सर्वश्री विक्रो प्रोडक्ट्स लि०, बम्बई को आई सी आई सी आई ऋण के अधीन क्लोरोसिलेन्स के विनिर्माण के लिए पूंजीगत माल मशीनरी के आयात के लिए 46,38,484 रुपए (छियासीस लाख अठतीस हजार चार सौ चौरासी रुपए मात्र) का आयात लाइसेंस सं० पी०/सी जी०/2082340 दिनांक 25-3-81 प्रदान किया गया था। फर्म ने उपर्युक्त लाइसेंस की सीमा-शुल्क प्रति की अनुलिपि प्रति के लिए इस आधार पर आवेदन किया है कि मूल सीमा-शुल्क प्रति खो गई या अस्थानस्थ हो गई है। आगे यह कहा गया है कि सीमा-शुल्क प्रति सीमा-शुल्क प्राधिकारी, बम्बई के पास पंजीकृत कराई गई थी और सीमा-शुल्क प्रति में 19,70,715 रुपए शेष छोड़ते हुए उसका आंशिक उपयोग किया जा चुका है।

2. अपने तर्कों के समर्थन में लाइसेंसधारी ने नोटरी पब्लिक, महाराष्ट्र राज्य के सम्मुख विधिवत् शपथ ग्रहण करके स्टाम्प कागज पर एक शपथ पत्र दाखिल किया है। तदनुसार, मैं संतुष्ट हूँ कि आयात लाइसेंस सं० पी०/सी जी०/2082340 दिनांक 25-3-81 की मूल सीमा-शुल्क प्रति फर्म से खो गई या अस्थानस्थ हो गई है। यथासंशोधित आयात (निर्यात) आवेदन, 1955 दिनांक 7-12-1955 की उप-धारा 9(गग)

द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए सर्वश्री हिको प्रोडक्ट्स लि०, बम्बई को जारी किए गए आयात लाइसेंस सं० पी०/सी० जी०/2082340 दिनांक 25-3-81 की उक्त सीमा-शुल्क प्रति पत्र द्वारा रद्द की जाती है।

3. उक्त लाइसेंस की सीमा-शुल्क प्रति की अनुलिपि प्रति अलग से जारी की जा रही है।

[सं० सी०जी० /3/856/80/19]

एम० एल० भार्गव, उप-मुख्य नियंत्रक, आयात-निर्यात
कृते मुख्य नियंत्रक, आयात-निर्यात

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS AND EXPORTS

ORDER

New Delhi, the 17th December, 1983

S.O. 94.—M/s. Hico Products Ltd., Bombay were granted an import licence No. P/CG/2082340 dated 25-3-81 for Rs 46,38,484 (Rupees forty six lakh thirty eight thousand four hundred and eighty four only) for import of capital goods machinery for the manufacture of chlorosilanes under ICICI Loan. The firm has applied for issued of Duplicate copy of Customs purposes copy of the above mentioned licence on the ground that the original Customs Purposes Copy of the licence has been lost or misplaced. It has further been stated that the Customs Purposes copy of the licence was registered with Customs authority, Bombay and as such the value of Customs purpose copy has been utilised partly leaving a balance of Rs. 19,70,715.

2. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public, Maharashtra State. I am accordingly satisfied that the original Customs Purposes copy of import licence No. P/CG/2082340 dated 25-3-81 has been lost or misplaced by the firm. In exercise of powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended the said original Customs Purposes copy No. P/CG/2082340 dated 25-3-81 issued to M/s. Hico Products Ltd., Bombay is hereby cancelled.

3. A duplicate Customs Purposes copy of the said licence is being issued to the party separately.

[No. CG.III/856/80/19]

M. L. BHARGAVA, Dy. Chief Controller of
Imports & Exports for Chief Controller of
Imports & Exports

(तदर्थ लाइसेंस अनुभाग)

आदेश

नई दिल्ली, 29 दिसम्बर, 1983

का०आ० 95—उपराज्यपाल, अरुणाचल प्रदेश, ईटानगर को केवल (1) शिस्की/ब्रांडी/वाइन, (2) सिगरेट (3) प्रसाधन सामग्री अंगरंग के आयात के लिए 10,000 रु० मात्र का एक आयात लाइसेंस सं० जी०ए०/1091712, दिनांक 25-2-83 प्रदान किया गया था। आवेदक ने उपरोक्त आयात लाइसेंस की अनुलिपि प्रति (सीमा शुल्क एवं मुद्रा विनियम नियंत्रण दोनों) के लिए इस आधार पर आवेदन किया है कि उक्त 1242 GI/83—2

लाइसेंस खो गया/अस्थानस्थ हो गया है। यह लाइसेंस सर्वश्री मोहन लाल पंड कम्पनी ((वेयर हाउस) प्लाजा बिल्डिंग, दूसरी मंजिल, कनाट प्लेस, नई दिल्ली के पाम पंजीकृत कराया गया था और शेष 4,965.13 रु० (चार हजार नौ सौ पैंसठ रुपए और तेरह पैसे) को टोड़कर 5034.87 रु० के लिए उसका आंशिक रूप से उपयोग कर लिया गया था।

2. अपने तर्क के समर्थन में लाइसेंसधारी ने उपर्युक्त न्यायिक प्राधिकारी के सम्मुख विधिवत शपथ लेकर एक शपथपत्र दाखिल किया है और मूल लाइसेंस के मिलने पर उसे लाइसेंस प्राधिकारी को वापस करने का भी वचन दिया है। तदनुसार, मैं संतुष्ट हूँ कि मूल आयात लाइसेंस सं० जी०ए०/1091712 दिनांक 25-2-83 खो गया/अस्थानस्थ हो गया है। समय-2 पर यथा संशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की उप धारा 9 (सीमा) के अन्तर्गत प्रदत्त अधिकारों का उपयोग करते हुए, उप राज्यपाल अरुणाचल प्रदेश ईटानगर को जारी किया गया उक्त लाइसेंस सं० जी०ए०/1091712 दिनांक 25-2-83 एतद्वारा रद्द किया जाता है।

3. पार्टी को शेष अप्रयुक्त मूल्य अर्थात् 4,965.13 रु० मात्र के लिए उपर्युक्त आयात लाइसेंस की अनुलिपि प्रति अलग से जारी की जा रही है।

[सं० 16/9/ए०एम०८३/ए०एल०एस० 1835]

एन० एस० कृष्णमूर्ति, उप मुख्य नियंत्रक,
आयात निर्यात

ORDER

New Delhi, the 29th December, 1983

S.O. 95.—Lt. Governor, Arunachal Pradesh, was granted an import licence No. G/A/1091712/C/XX/86/H/83/ALS dated 25-2-1983 only for import of (i) Whisky/Brandy/Wines (ii) Cigarettes (iii) Toiletries/Cosmetics for Rs. 10,000 only. The applicant has applied for issue of Duplicate copy of the said import licence on the ground that the said import licence (both Customs and Exchange Control) has been lost/misplaced. This licence had been registered with M/s. Mohan Lal & Co. (Ware House) Plaza Building, 2nd floor, Connaught Place, New Delhi and had been partly utilized to the extent of Rs. 5034.87 leaving a balance of Rs. 4,965.13 paise (Rupees Four Thousand, Nine Hundred Sixty Five and Paise Thirteen only) unutilized.

2. In support of his contention, the licensee has filed an affidavit duly sworn before an appropriate judicial authority undertaking to return the original licence, if traced, to the licensing authority. I am accordingly satisfied that the original import licence No. G/A/1091712 dated 25-2-83 has been lost by the applicant. In exercise of the power conferred under Sub-clause 9(cc) of the Import (Control) Order, 1955 dated

7-12-1955 as amended from time to time, the said original licence No. G/A/1091712 dated 25-2-83 issued to Lt. Governor, Arunachal Pradesh, Itanagar is hereby cancelled.

issued to the party separately for the unutilized balance of Rs. 4,965.13 only.

[No. 16/9/AM83/ALS/1835]

N. S. KRISHNAMURTHY, Dy. Chief Controller
of Imports and Exports

3. A duplicate copy of the import licence is being

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 26 दिसम्बर, 1983

का० प्रा० 96.—कोयला खान अथवा कल्याण निधि नियमावली, 1949 के नियम 3 के साथ पठित कोयला खान अथवा कल्याण निधि अधिसूचना 1947 (1947 का 32) की धारा 8 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के भूतपूर्व अथवा मंत्रालय की अधिसूचना संख्या सा०प्रा० 1264, दिनांक 5 अप्रैल, 1975 का अधिक्रमण करते हुए, केन्द्रीय सरकार एतद्वारा एक सलाहकार समिति का गठन करती है, जिसमें निम्नलिखित सदस्य शामिल हैं, अर्थात् :—

- | | | | |
|--|---|-----------|--|
| 1. संयुक्त सचिव, भारत सरकार,
कल्याण कार्य के प्रभारी,
ऊर्जा मंत्रालय (कोयला विभाग) | : | अध्यक्ष | |
| 2. कोयला खान अथवा कल्याण प्रायुक्त | : | उपाध्यक्ष | |
| 3. मुख्य खान निरीक्षक | : | सदस्य | |
| 4. उप सचिव, पश्चिम बंगाल सरकार, अथवा विभाग | : | सदस्य | पश्चिम बंगाल सरकार द्वारा नामित |
| 5. अथवा प्रायुक्त, बिहार | : | सदस्य | बिहार सरकार द्वारा नामित |
| 6. अथवा प्रायुक्त, मध्य प्रदेश | : | सदस्य | मध्य प्रदेश सरकार द्वारा नामित |
| 7. निदेशक (विपणन और कार्मिक), कोल इंडिया लि० | : | सदस्य | |
| 8. निदेशक (कार्मिक) सेन्ट्रल कोल-फील्ड्स लि० | | | कोयला खानों के मालिकों का प्रतिनिधित्व करने के लिए |
| 9. निदेशक (कार्मिक),
भारत कोकिंग कोल लि० | : | सदस्य | केन्द्रीय सरकार द्वारा नामित, |
| 10. निदेशक (कार्मिक), वेस्टर्न
कोलफील्ड्स लि० | | | |
| 11. निदेशक (कार्मिक),
ईस्टर्न कोलफील्ड्स लि० | | | |
| 12. मुख्य इंजीनियर (सिविल),
सिंगरैनी कोलियरीज क० लि० | | | |
| 13. श्री दामोदर पांडे,
संयुक्त महा सचिव,
इंडियन नेशनल माइन वर्कर्स फेडरेशन (इंटर)
आफ़िसर: रामगढ़ फ़ील्ड (बिहार) | | | |
| 14. श्री एस० एस० भारद्वाज,
उपाध्यक्ष, मध्य प्रदेश राष्ट्रीय
कोयला खदान मजदूर संघ,
(इंटर) बांवामाटा (म०प्र०) | : | सदस्य | कोयला खानों में कार्यरत कामगारों के हित का प्रतिनिधित्व करने के लिए केन्द्रीय सरकार द्वारा नामित |
| 15. श्री हितमारायण सिंह,
महा सचिव,
हिन्दू मजदूर सभा
(हि म स) कोरिया संघ,
आफ़िसर: झरिया, (बिहार) | | | |
| 16. श्री अनिल सरकार, सचिव,
बिहार कोलमाइनर्स यूनियन,
यू टी यू सी (एल एस),
दिगबाड़ीह (अनबाब) बिहार | | | |

17. डा बसन्त कुमार राय,
संगठन सचिव, अखिल भारतीय
खान मजदूर संघ (भा ख म सं)
पाथाबेड़ा (मध्य प्रदेश)
18. श्री राजन मैथ्यू, सचिव, : सदस्य कोयला खानों में कार्यरत कामगारों के हित का प्रतिनिधित्व करने के लिए केंद्रीय सरकार द्वारा नामित
कोलियरी मजदूर सभा (पेटक)
खादिया परियोजना,
मिर्जापुर (उ प्र)
19. —रिक्त—
20. श्री एच एन त्रिपाठी, : सदस्य इंडियन माइन मैनेजर्स एसोसिएशन की सिफारिश पर केंद्रीय सरकार द्वारा नामित
महा प्रबंधक और अध्यक्ष,
इंडियन माइन मैनेजर्स एसोसिएशन,
भारत कोकिंग कोल लि०,
डाकघर : नौबागढ़,
धनबाद (बिहार)
21. श्री आर भाबसा, : सदस्य नेशनल एसोसिएशन ऑफ कोलियरी मैनेजर्स की सिफारिश पर केंद्रीय सरकार द्वारा नामित
कोलियरियों के निदेशक (जे एच),
टाटा स्टील लि०, (नेशनल एसोसिएशन ऑफ कोलियरी मैनेजर्स)
डाकघर : जामवोबा,
धनबाद (बिहार)

[फा० सं० यू-23018/7/83-सी० एम० डब्ल्यू०]
समय सिंह, सचिव

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 26th December, 1983

S. O. 96.—In exercise of the powers conferred by section 8 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947) read with rule 3 of the Coal Mines Labour Welfare Fund Rules, 1949 and in supersession of the notification of Government of India in the late Ministry of Labour, No.S.O. 1264, dated the 5th April, 1975, the Central Government hereby constitutes an Advisory Committee consisting of the following members, namely :—

- | | | |
|---|---------------|--|
| 1. The Joint Secretary to the Government of India, Incharge of Welfare Work, Ministry of Energy (Department of Coal). | Chairman | |
| 2. The Coal Mines Labour Welfare Commissioner. | Vice-Chairman | |
| 3. The Chief Inspector of Mines | Member | |
| 4. The Deputy Secretary to the Government of West Bengal, Labour Department. | Member | Nominated by the Government of West Bengal. |
| 5. The Labour Commissioner, Bihar | Member | Nominated by the Government of Bihar. |
| 6. The Labour Commissioner, Madhya Pradesh | Member | Nominated by the Government of Madhya Pradesh. |
| 7. The Executive Director (Marketing & Personnel) Coal India Limited. | | |
| 8. The Director (Personnel) Central Coalfields Limited. | | |
| 9. The Director (Personnel) Bharat Coking Coal Limited. | Member | Nominated by Central Government to represent owners of Coal Mines. |
| 10. The Director (Personnel) Western Coalfields Limited. | | |
| 11. The Director (Personnel) Eastern Coalfields Limited. | | |
| 12. The Chief Engineer (Civil) Singareni Collieries Company Limited. | | |

13. Shri Damodar Pandey, Joint General Secretary, Indian National Mineworkers Federation (INTUC) P.O. Ramgarh Cantt. (Bihar).		
14. Shri S.S. Bharadwaj, Vice President, Madhya Pradesh Rashtriya Koyala Khandan Mazdoor Sangh. (INTUC) Chandametta (M.P.)		
15. Shri Hitnarayan Singh, General Secretary, Hind Mazdoor Sabha (HMS) Koria Bandh, P.O. Jharla, (Bihar).		
16. Shri Anil Sarkar, Secretary, Bihar Coal Miners' Union, UTUC (LS), Digwadih (Dhanbad) Bihar.	Member	Nominated by Central Government to represent the interest of workmen employed in Coal Mines.
17. Dr. Basant Kumar Rai, Organising Secretary, Akhil Bharatiya Khadan Mazdoor Sangh (BMS), Pathakhera (M.P.)		
18. Shri Rajan Mathew, Secretary, Colliery Mazdoor Sabha (AITUC) Khadia Project, Mirzapur (U.P.)		
19. -Vacant-		
20. Shri H.N. Tripathy, General Manager and President, Indian Mine Managers' Association, Bharat Coking Coal Limited, P.O. Nowgarh, Dhanbad (Bihar)	Member	Nominated by Central Government on the recommendation of Indian Mine Managers' Association.
21. Shri R. Chawla, Director of Collieries (JH), Tata Iron and Steel Company Limited, (National Association of Colliery Managers), P.O. Jamadoba, Dhanbad (Bihar)	Member	Nominated by Central Government on the recommendation of National Association of Colliery Managers.

[F. No. U-23018/7/83-CMW]

SAMAY SINGH, Under Secy.

ग्रामीण विकास मंत्रालय

नई दिल्ली, 28 दिसम्बर, 1983

का० आ० 97.—ऊन के श्रेणीकरण और चिह्नांकन (संशोधन) नियम, 1983 का प्रारूप, कृषि उपज (श्रेणीकरण और चिह्नांकन) अधिनियम, 1937 (1937 का 1) की धारा 3 की अपेक्षानुसार भारत सरकार के ग्रामीण विकास मंत्रालय की अधिसूचना सं० का० आ० 1678, तारीख 5 मार्च, 1983 के अधीन भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 26 मार्च, 1983 के पृष्ठ 1655-1656 पर प्रकाशित किया गया था, जिसमें उक्त अधिसूचना के प्रकाशन की तारीख से पैंतालीस दिन की अवधि की समाप्ति तक उन सभी व्यक्तियों से आशेष और मुझाव मांगे गए थे, जिनके उससे प्रभावित होने की सम्भावना थी ;

और, उक्त राजपत्र की प्रतियां 5 अप्रैल, 1983 को जनता को उपलब्ध करा दी गई थीं ;

और, जनता से कोई आक्षेप या मुझाव प्राप्त नहीं हुए हैं ;

अतः अब, केन्द्रीय सरकार कृषि उपज (श्रेणीकरण और चिह्नांकन) अधिनियम, 1937 (1937 का 1) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उन श्रेणीकरण और चिह्नांकन नियम, 1975 का संशोधन करने के लिए निम्नलिखित नियम बनाता है, अर्थात् :—

1. इस नियमों का संक्षिप्त नाम ऊन श्रेणीकरण और चिह्नांकन (संशोधन) नियम, 1983 है ।

2. ऊन श्रेणीकरण और चिह्नांकन नियम, 1975 में, नियम 15 के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“प्राधिकरण की विशेष शक्तें :—

- (1) एक लाट में केवल एक श्रेणी की ही ऊन पैक की जाएगी ।

- (2) निम्नलिखित शर्तें इन नियमों के प्रयोजन के लिए जारी किए गए प्रत्येक प्राधिकार प्रमाणपत्र की शर्तें होंगी, अर्थात् :—

- (क) ऊन व्यापारियों के परिसर तथा गांठ दाब यंत्र साफ और सुखरे होंगे और उनमें ऊन साफ करने, उसकी छंडाई करने, गांठ बनाने, तोलने, भंडारकरण, सरकारी निरीक्षण तथा चिह्नित हेतु पर्याप्त स्थान तथा सुविधाएं होंगी ।

- (ख) नमूना लेने की पद्धति, परीक्षण, चिह्नित और दाब से पहले तथा बाद में उनका निरीक्षण और उनके अभिलेख रखने के बारे में, कृषि विपणन सलाहकार, भारत सरकार द्वारा समय-समय पर जारी किए गए सभी अनुदेशों का सभी सम्बद्ध व्यक्तियों द्वारा पूरी तरह पालन किया जाएगा ।

- (ग) श्रेणी अभियान चिह्नित केवल प्राधिकार प्रमाण पत्र में उल्लिखित बस्तुओं और उसमें उल्लिखित परिसरों को लागू होंगे ।

- (घ) प्राधिकार प्रमाणपत्र के प्रवर्तन के दौरान, उसका धारक, सभी युक्तियुक्त समयों पर, उसमें नामित परिसरों में, कृषि विपणन सलाहकार, भारत सरकार या केन्द्रीय सरकार द्वारा सम्यक्तः प्राधिकृत किसी भी व्यक्ति को आने देगा और उसको यह अभिनिर्दिष्ट करने के लिए सुविधाएं देगा कि चिन्हन सही किया जा रहा है।
- (ङ) प्राधिकार प्रमाणपत्र का धारक, प्रत्येक श्रेणी अभिवान से चिन्हित पैकेटों की संख्या का अभिलेख रखेगा और कृषि विपणन सलाहकार, भारत सरकार या केन्द्रीय सरकार द्वारा सम्यक्तः प्राधिकृत किसी व्यक्ति को अभिलेखों की परीक्षा करने देगा।
- (च) प्राधिकार प्रमाण पत्र का धारक, कृषि विपणन सलाहकार, भारत सरकार या केन्द्रीय सरकार द्वारा सम्यक्तः प्राधिकृत किसी व्यक्ति को किसी श्रेणीकृत उपज का नमूना लेने और श्रेणी अभिवान चिह्न वाले किसी पैकेट का निरीक्षण करने देगा परन्तु यह तब जब कि सभी नमूनों के दाम दे दिए गए हों।
- (छ) कृषि विपणन सलाहकार, भारत सरकार या केन्द्रीय सरकार द्वारा इस निमित्त प्राधिकृत कोई व्यक्ति किसी श्रेणीकृत उपज से श्रेणी अभिवान चिह्न को रद्द कर सकता है या हटा सकता है। यदि उस व्यक्ति द्वारा वह उपज, उस वस्तु के लिए विहित नबालिटी की परिभाषा के अनुरूप न पाई जाए :
- परन्तु जब भी वितरकों की, न कि प्राधिकृत पैकर की, श्रेणीकृत उपज से श्रेणी अभिवान चिह्न हटाया जाए तब प्राधिकृत पैकर, जब उसे कृषि विपणन सलाहकार, भारत सरकार द्वारा बंसा निदेश दिया जाए तब वितरक को, श्रेणी अभिवान चिह्न के हटाए जाने के परिणामस्वरूप हुई हानि पूरा करेगा, और यह हानि उस अतिरिक्त मूल्य के आधार पर प्राक्कलित की जाएगी जो उचित तौर पर श्रेणीकृत उपज से अश्रेणीकृत उत्पाद की तत्समय माता के चाखू बाजार मूल्य से ऊपर अभिप्राप्त हुआ होता।
- (ज) कृषि उपज (श्रेणीकरण और चिन्हन) अधिनियम, 1937 के अधीन बनाए गए सभी नियमों (और कृषि विपणन सलाहकार, भारत सरकार द्वारा, समय-समय पर जारी किए गए नमूना लेने की पद्धति, विश्लेषण, सावधिक विवरणियां प्रस्तुत करने आदि से संबंधित सभी अनुदेशों) का पालन किया जाएगा।
- (झ) कोई भी प्राधिकार प्रमाणपत्र कृषि विपणन सलाहकार, भारत सरकार या केन्द्रीय सरकार द्वारा इस निमित्त प्राधिकृत किसी अन्य व्यक्ति द्वारा रद्द प्रतिसंहत, उपांतरित या निलम्बित किया जा सकता है, परन्तु प्राधिकार प्रमाणपत्र धारक को, प्राधिकार प्रमाणपत्र में कथित पते पर 14 दिन पूर्व लिखित रूप में सूचना दी जाएगी और उसमें यह हेतुक दर्शित करने का अवसर दिया जाएगा कि उसका प्राधिकार प्रमाणपत्र रद्द प्रतिसंहत, उपांतरित या निलम्बित क्यों न कर दिया जाए।
- (ञ) कोई भी प्राधिकार प्रमाणपत्र धारक, कृषि विपणन सलाहकार, भारत सरकार की लिखित सहमति से, अपने कारबार के कागज पत्रों और सूची पत्रों पर ऐगमार्क डिजाइन की प्रतिकृति का उपयोग कर सकता है।
- (ट) श्रेणीकृत उपज को बिहित रीति से चिह्नित करने के लिए अपेक्षित कोई स्टेंसिल, रबड़ की मोहर, पंच मशीन या अन्य औजार अथवा लेबल केवल कृषि विपणन सलाहकार, भारत सरकार या उसके द्वारा प्राधिकृत किसी व्यक्ति से उतने दाम देकर अभिप्राप्त किए जाएंगे, जितने केन्द्रीय सरकार द्वारा समय-समय पर इस निमित्त निम्न किए जाएं और वे, प्राधिकार प्रमाणपत्र धारक द्वारा निरापद अभिरक्षा में रखे जाएंगे और जब वह प्राधिकार प्रमाणपत्र विधिमान्य न रहे तब वे, यावत्साध्य, कृषि विपणन सलाहकार, भारत सरकार या उक्त प्राधिकृत व्यक्ति को वापिस कर दिए जाएंगे।
- (ठ) श्रेणीकृत उपज को बिहित रीति से चिह्नित करने के लिए अपेक्षित श्रेणी अभिवान चिह्न लेबलों या किसी स्टेंसिल, रबड़ की मोहर, पंच मशीन या अन्य औजार का जारी किया जाना या प्रयोग, कृषि विपणन सलाहकार, भारत सरकार या उसके द्वारा इस निमित्त प्राधिकृत किसी व्यक्ति द्वारा उतनी अवधि के लिए जितनी वह बेहतर विपणन के हित में समीचीन समझे बिना सूचना के रोक जा सकता है या वापिस लिया जा सकता है, यदि उसका

समाधान हो जाए या उसके पास यह विश्वास करने का कारण हो कि प्राधिकृत पैकर, श्रेणी अभिधान चिह्न का सही रूप में प्रयोग नहीं कर रहा है या उसके सही रूप में प्रयोग करने की संभावना नहीं है, और

(इ) प्राधिकार प्रमाणपत्र धारक, श्रेणी अभिधान चिह्नों से चिह्नित अनुसूची वस्तुओं का क्वालिटी-नियंत्रण प्रवृत्त करने के लिए उपायों जिनमें नमूनों का परीक्षण और उन वस्तुओं का निरीक्षण भी है, के संबंध में या ऐसी वस्तुओं के किसी वर्ग के विक्रय-संबंधन के लिए किए गए प्रचार कार्य के संबंध में उपगत खर्चों मद्दे ऐसे प्रभारों का संदाय करेगा जो केन्द्रीय सरकार द्वारा समय-समय पर विहित किए जाए।

टिप्पण :—पहला संशोधन भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 8-5-82 में का० आ० 1671 के रूप में ग्रामीण विकास मंत्रालय की अधिसूचना सं० 13-10/76-एम०, तारीख 12 अप्रैल, 1982 के अधीन प्रकाशित किया गया था।

[सं० फा० 13-10/76-एम० 1]

ओ० पी० मिश्रा, अवर सचिव

MINISTRY OF RURAL DEVELOPMENT

New Delhi, the 28th December, 1983

S.O. 97.—Whereas the draft of Wool Grading and Marking (Amendment) Rules, 1983 was published as required by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) on pages 1655-1656 of the Gazette of India, Part II, Section 3, sub-section (ii) dated the 26th March, 1983, under the notification of the Government of India in the Ministry of Rural Development, No. S.O. 1678, dated the 5th March, 1983, inviting objections and suggestions from all persons likely to be affected thereby till the expiry of the period of the forty five days from the date of the publication of the said notification.

And whereas Gazette copies of the said notification were made available to the public on the 5th April, 1983;

And whereas no objections or suggestions have been received from the public;

Now, therefore, in exercise of the powers conferred by Section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), the Central Government hereby makes the following rules to amend the Wool Grading and Marking Rules, 1975, namely :—

1. These rules may be called the Wool Grading and Marking (Amendment) Rules, 1983.

2. In the Wool Grading and Marking Rules, 1975, for rule 15, the following rule shall be substituted, namely :—

“Special conditions of authorisation.—(1) Wool of one grade only shall be packed in one lot.

(2) The undermentioned conditions shall be the conditions of every Certificate of Authorisation issued for the purpose of these rules, namely :—

- (a) the premises of wool merchants and baling presses shall be clean and tidy and shall provide adequate space facilities for cleaning, sorting, baling, weighing, storage, official inspection and marking of wool;
- (b) all instructions regarding method of sampling, testing, marking and inspection of wool before and after the pressing and maintenance of records thereof, issued by the Agricultural Marketing Adviser to the Government of India from time to time shall be strictly observed by all concerned;
- (c) grade designation marks shall only be applied to the articles mentioned in the Certificate of Authorisation and at the premises therein mentioned;
- (d) during the operation of the Certificate of Authorisation, the holder thereof shall, at all reasonable times, give access to the premises named therein to any person duly authorised by the Agricultural Marketing Adviser to the Government of India or by the Central Government and shall afford him facilities for ascertaining that marking is being correctly performed;
- (e) the holder of the Certificate of Authorisation shall keep a record of the number of packages marked with each grade designation mark and shall permit any person duly authorised by the Agricultural Marketing Adviser to the Government of India or by the Central Government to examine the records;
- (f) the holder of the Certificate of Authorisation shall permit any duly authorised person by the Agricultural Marketing Adviser to the Government of India or by the Central Government to take samples of any graded produce or to open and inspect any package bearing a grade designation mark, provided that all samples shall be paid for;
- (g) any person authorised in this behalf by the Agricultural Marketing Adviser to the Government of India or by the Central Government may cancel or remove a grade designation mark from any graded produce (should such produce be found by such person as not to comply with the definition of quality prescribed for that article; provided that whenever grade designation marks are removed from graded produce belonging to distributors, and not to authorised packers, the letters shall, when so directed by the Agricultural Marketing Adviser to the Government of India, make good to the former any loss sustained as a result of the removal of the grade designation mark, the loss being estimated on the basis of the additional value that the properly graded produce would have obtained in the market over and above the current market value of the corresponding quantity of the ungraded product);
- (h) all the rules made under the Agricultural Produce (Grading and Marking) Act, 1937 (and all instructions regarding methods of sampling, analysis, submission of periodical returns, etc., which may be issued from time to time, by the Agricultural Marketing Adviser to the Government of India), shall be observed;
- (i) any Certificate of Authorisation may be cancelled, revoked, modified or suspended by the Agricultural Marketing Adviser to the Government of India or by any other person authorised by the Central Government in that behalf, provided that 14 days notice in writing shall be given to the Certificate holder at the address stated on the Certificate of Authorisation and an opportunity given him or showing

cause why his Certificate of Authorisation shall not be cancelled, revoked, modified or suspended;

- (j) any holder of a Certificate of Authorisation may, with the written consent of the Agricultural Marketing Adviser to the Government of India, use a replica of the Agmark design on his business papers and catalogues;
- (k) any stencil, rubber stamp, punch or other instrument or label required for marking graded produce in the prescribed manner shall be obtained only from the Agricultural Marketing Adviser to the Government of India, or a person authorised by him, on payment of such charges as the Central Government may, from time to time, fix in this behalf shall be kept in safe custody by the holder of the Certificate of Authorisation, and shall, so far as may be returned to the Agricultural Marketing Adviser to the Government of India or such authorised person when the Certificate of Authorisation ceases to be valid;
- (l) the issue or use of grade designation mark labels or any stencil, rubber stamp, punch or other instrument required for marking graded produce in the prescribed manner may be withheld or withdrawn by the Agricultural Marketing Adviser to the Government of India or person authorised by him in this behalf without any notice, for such period as he may consider expedient in the interest of better marketing, if he is satisfied or has reasons to believe that the authorised packer is not applying, or is not likely to apply, grade designation marks correctly and
- (m) the holder of a Certificate of Authorisation shall pay such charges as may be prescribed by the Central Government from time to time, towards the expenses incurred in connection with measures for enforcing the quality control of scheduled articles marked with grade designation marks including testing samples and inspection of such articles or with any publicity work carried out to promote the sale of any class of such articles."

[No. F. 13-10/76-MT]

O. P. MISHRA, Under Secy.

Note : 1. First amendment was published under the notification No. 13/10/76-AM dated 21-4-1982 of the Ministry of Rural Development as S.O. No. 1671 in the Gazette of India Part II, Section 3, Sub-section (ii) dated 8-5-1982.

पर्यटन और नागर विमानन मंत्रालय

(नागर विमानन विभाग)

अधिसूचना

नई दिल्ली, 20 दिसम्बर, 1983

का० भा० 98 :—भारत अन्तरराष्ट्रीय विमानपत्तन प्राधिकरण अधिनियम, 1971 (1971 का 43) की धारा 3 की उप धारा (3) द्वारा दी गई शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार इस अधिसूचना द्वारा भारतीय वायुसेना के असिस्टेंट चीफ आफ एयर स्टाफ (प्रचालन) एयर वाइस मार्शल एस० के० मेहरा को इसी समय से तीन वर्ष की अवधि के लिए पदेन आधार पर भारत अन्तरराष्ट्रीय विमान पत्तन प्राधिकरण का अंशकालिक सदस्य नियुक्त करती है।

[ए० बी० 24012/1/83-एए-एए-2]

नसीब सिंह, अवर सचिव

MINISTRY OF TOURISM AND CIVIL AVIATION

(Department of Civil Aviation)

New Delhi, the 20th December, 1983

S.O. 98.—In exercise of the powers conferred by sub-section (3) of Section 3 of the International Airports Authority Act, 1971 (43 of 1971), the Central Government hereby appoints Air Vice Marshal S. K. Mehra, Assistant Chief of Air Staff (Operations), Indian Air Force, as part-time Member of the International Airports Authority of India with immediate effect on ex-officio basis for a period of three years.

[AV 24012/1/83-AA-F.II]
NASIB SINGH, Under Secy.

संचार मंत्रालय

(डाक तार बोर्ड)

नई दिल्ली, 30 दिसम्बर, 1983

का० आ० 99 :—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गये भारतीय तार नियम, 1951 के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने सिलवासा टेलीफोन केन्द्र में दिनांक 16-1-84 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-11/83-पी एच बी]

MINISTRY OF COMMUNICATIONS

(P&T Board)

New Delhi, the 30th December, 1983

S.O. 99.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specified 16-1-1984 as the date on which the Measured Rate System will be introduced in Silvassa Telephone Exchange Gujarat Circle.

[No. 5-11/83-PHB]

नई दिल्ली, 3 जनवरी, 1984

का० आ० 100 :—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गये भारतीय तार नियम, 1951 के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक तार महानिदेशक ने तहकाहसरि पाणाबल्लि टेलीफोन केन्द्र में दिनांक 16-1-84 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-9/83-पी एच बी]

बिलोकी नाथ, सहायक महानिदेशक (पी०एच०ए०)

New Delhi, the 3rd January, 1984

S.O. 100.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specified 16-1-1984 as the date on which the Measured Rate System will be introduced in Thygattussery/Panvally Telephone Exchanges Kerala Circle.

[No. 5-9/83-PHB]

TRILOKI NATH, Asstt. Director General (PHB)

श्रम तथा पुनर्वास मंत्रालय

(श्रम विभाग)

आदेश

नई दिल्ली, 25 नवम्बर, 1983

का० आ० 101.—इसमें उपाचूट अनुसूची में विनि-
विष्ट विषय के बारे में औद्योगिक विवाद केन्द्रीय सरकार
औद्योगिक अधिकरण-व-श्रम न्यायालय, नई दिल्ली में
लंबित पड़ा।

और जम्मू एवं कश्मीर, पंजाब, हरियाणा, हिमाचल प्रदेश
राज्यों और संघ शासित क्षेत्र चण्डीगढ़ क्षेत्राधिकार के लिये
एक नया केन्द्रीय सरकार, औद्योगिक अधिकरण-व-श्रम न्यायालय
चण्डीगढ़ स्थापित किया गया है।

अतः केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 33-ख द्वारा प्रदत्त
शक्तियों का प्रयोग करते हुए उक्त विवाद के संबंध में,
केन्द्रीय सरकार औद्योगिक अधिकरण-व-श्रम न्यायालय, नई
दिल्ली में लंबित पड़ी कार्यवाही को वापस लेती है तथा इसकी
केन्द्रीय सरकार औद्योगिक अधिकरण-व-श्रम न्यायालय, चण्डीगढ़
को इस निदेश के साथ स्थानान्तरित करती है कि उक्त
अधिकरण-व-श्रम न्यायालय इस से आगे, जिस अवस्था पर
इस को हस्तान्तरित किया गया है, कार्यवाही करे और कानून
के अनुसार इसका निपटारा करे।

अनुसूची

क्रमांक	ओ० विवाद का हवाला जो के० मे० ओ० अ० व श्रम न्या० में पड़ा है	श्रम मंत्रालय के आदेश की सं० और तारीख	पार्टियों का नाम
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1. आई० डी० सं० 220/83	एल०-4012/22/81 एफ०सी० आई० डी० 4 (ए) ता० 3/8/83	प्रवीप कुमार बनाम भारतीय खाद्य निगम
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[सं० एल-42012/22/81-एफ० सी० आई०/डी-4(ए)]

MINISTRY OF LABOUR AND REHABILITATION

(Department of Labour)

ORDER

New Delhi, the 25th November, 1983

S.O. 101.—WHEREAS the industrial dispute specified in the Schedule hereto annexed is pending before Central Government Industrial Tribunal-cum-Labour Court, New Delhi.

AND WHEREAS a new Central Government Industrial Tribunal-cum-Labour Court has been created at Chandigarh with jurisdiction over the States of Jammu & Kashmir, Punjab, Haryana, Himachal Pradesh and Union Territory of Chandigarh;

NOW THEREFORE, in exercise of the powers under section 33-B of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby withdraws the proceedings in relation to the said dispute pending before the Central Government Industrial Tribunal-cum-Labour Court, New Delhi and transfers the same to Central Government Industrial Tribunal-cum-Labour Court, Chandigarh, with direction that the said Tribunal shall proceed with the proceedings from the stage at which it is transferred to it and dispose of the same according to law.

SCHEDULE

Sr. No.	Reference I.D. No. before the CGIT-cum-Labour Court, New Delhi.	Number and date of the order of the Govt. of India Ministry of Labour	Name of the parties
1.	I.D. No. 220/83	L-42012/22/81-FCI-D. IV/A dt. 3-8-83	Pradeep Kumar Vs. Food Corporation of India.

[No. L-42012/22/81-FCI/DIV(A)]

New Delhi, the 30th December, 1983

S.O. 102.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial dispute between the employers in relation to the management of National Insurance Company Limited, Kanpur and their workmen which was received by the Central Government on the 16-12-1983.

BEFORE SHRI O.P. SINGLA: PRESIDING OFFICER:
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL:
NEW DELHI

I.D.No. 51 of 1983

In the matter of disputes between:

Shri Hari Lal
c/o Shri Ram Narain,
127/180,
Juhi Kanpur
Versus

National Insurance Company Limited The Mall, Kanpur.

PRESENT :

Shri L. M. Sabharwal—for the Management.

None—for the workman.

AWARD

The Central Government, Ministry of Labour, vide Order No. L-17012/1/82-D.IV(A), dated 23rd June, 1982 made

the reference of the following dispute to this Tribunal for adjudication:—

“Whether the action of the management of National Insurance Company Limited, Kanpur, in terminating the services of Shri Hari Lal, Sub-staff, with effect from 16-2-1979 is justified? If not, to what relief is the concerned workman entitled?”

2. The workman did not appear despite service and he was proceeded ex-parte on 27-10-83. The Management has filed an affidavit of Shri D. P. Ghosh, Administrative Officer of the National Insurance Company Limited in Northern Regional Office. It is sworn in his affidavit that this workman, Hari Lal, was appointed due to exigencies of business only for a short period of 85 days from 16-11-78 till 8-2-79 and that his services automatically came to an end by afflux of time, because the workman was employed for a definite period. The workman did not complete 240 days in a year and was not entitled to notice or retrenchment compensation under Section 25-F of the Industrial Disputes Act, 1947. The action of the management submitted to this Tribunal for examination does not appear to be otherwise than justified. The award is made accordingly.

December 5, 1983.

O. P. SINGLA, Presiding Officer
[No. L-17012/1/82/D.IV.A]

S.O. 103.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial dispute between the employers in relation to the management of State Bank of Bikaner and Jaipur, and their workmen, which was received by the Central Government on the 19th December, 1983.

BEFORE SHRI O. P. SINGLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I.D. No. 12 of 1981

In the matter of disputes
BETWEEN

Shri G.N. Pareek,
C/o Saroop Vilas Garden,
Sirohi (Raj).

AND

State Bank of Bikaner & Jaipur
Head Office S. M. S. Highway, Jaipur.

PRESENT :

Miss Mithlesh Singal—for the Management.

None—for the workman.

AWARD

The Central Government, Ministry of Labour, vide Order No. L-12012/85/78-D. II. A. dated 24th January, 1981 made the reference of the following dispute to this Tribunal for adjudication:—

“Whether the action of the management of State Bank of Bikaner & Jaipur, Jaipur, in suspending Shri Gokul Sarain Pareek, Clerk-cum-Agriculture Assistant, Mandware Branch with effect from 24-11-1971 and subsequently dismissing him from service with effect from 3-9-1975 is justified? If not, to what relief the said workman is entitled?”

2. The workman, G. N. Pareek was dismissed by the Management from service w.e.f. 3-9-75 after holding a do-1242 G1/83—3

mestic enquiry. He was suspended w.e.f. 24-11-71 and the charge-sheet against him was as follows in respect of demand and acceptance of various amounts of bribes:—

“1. Out of the various duties entrusted to you as Agriculture Assistant, you were required to maintain a daily diary of your movements with a view to keep record of the progress of agricultural works financed by the Bank which you failed to maintain. You thereby jeopardised the Bank's interest. You have, thus, committed an act of gross misconduct in terms of para 19.5, (j) of the Bipartite settlement.

2. You demanded and accepted various amounts as bribe from the persons as mentioned below as a motive or reward for getting the loans sanctioned in their favour.

1. Shri Ramdhan Rs. 100-1/2 Kg. Ghee & 1 litre wine
2. Shri Premchand Rs. 100/-
3. Shri Mankhan Rs. 100/-
4. Shri Sarvan Rs. 125/-
5. Shri Gopi Rs. 100/-
6. Shri Gheesa Rs. 200/-
7. Shri Ram Bux Rs. 200/-
8. Shri Mohan Das Bairagi Rs. 200/-
9. Shri Harati Rs. 200/-
10. Shri Giriraj Rs. 100/-
11. Shri Kamal Singh Rs. 100/-
12. Shri Ram Khilari Rs. 100/-
13. Shri Amar Chand Rs. 150/-
14. Shri Kishori Lal Rs. 50/-
15. Shri Bahadur Singh Rs. 150/- and

thus committed acts of gross misconduct in terms of paragraph 19.5, (k) of the Bipartite Settlement.”

3. The workman claims that the action against him was a matter of conspiracy of certain persons, who wanted loans from the Bank and were not so entitled and he gave their names as Ram Dhan, Prem Chand, Mankhan, Sarvan, Gopi Gheesa, Ram Bux, Mohan Dass Bairagi and Harati, Giri Raj, Kamal Singh, Ram Khilari, Amar Chand, Kishori Lal, and Bahadur Singh. These people were said to have made false complaints against him for getting loans sanctioned to them.

4. The workman pleaded that the charges levelled against him were vague and baseless and were framed after along time. He referred to the circumstances of the case to show that he was innocent. He pleaded that no proper enquiry was held and full opportunity was not given to him to produce his defence against the charges. His representation against the Enquiry Officer's findings was said to have not been duly considered and mere suspicion was said to have taken place for proof. He requested that the enquiry be set aside and dismissal be quashed and be reinstated in service.

5. The Management contested the workman's claim and pleaded that the charges were duly proved in the domestic enquiry and the findings of the Enquiry Officer were free and fair. His case was rejected by the Enquiry Officer as well as by the Disciplinary authority and even in appeal, he could not be granted any relief, because the charges proved deserved nothing less than the dismissal from service as punishment to the workman.

6. The workman did not appear today, even though the case was fixed for today in the presence of his representative Shri Rajinder Sharma and himself at Jaipur Camp on 22-10-83. Today's date of hearing at Delhi was also fixed in their presence at Jaipur.

7. The Management has filed the documents showing the conduct of the enquiry, the decision of the disciplinary authority as well as the order of appeal.

8. Prima facie, the action of the Management does not appear otherwise than free and fair after giving full and fair opportunity to the workman to produce his defence

against the charges and the same have been duly proved against him in a proper enquiry conducted by the Management. Nothing sort of dismissal is the punishment for a bank employee who has been guilty of corruption and therefore, the action of the Management appears to be justified and the workman is not entitled to any relief.

9. The award is made in the terms aforesaid.
December 13, 1983.

O. P. SINGLA, Presiding Officer
[No. I-12012/85/78/D-II (A)]

S.O. 104.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial disputes between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on the 19th December, 1983.

BEFORE SHRI O. P. SINGLA : PRESIDING
OFFICER : CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL : NEW DELHI

I.D. No. 162 of 1981

In the matter of disputes between :

Shri Atin Kumar Bose,
C/o Shri O. P. Nigam,
295/387, Dindayal Road,
Ashrafabad, Lucknow.

AND

Bank of India,
Naval Kishore Road,
Hazratganj, Lucknow.

PRESENT :

Shri Ashok K. Aggarwal with Mr. Arun Mehta
—for the Management.

Shri O. P. Nigam—for the Workman.

AWARD

The Central Government, Ministry of Labour, vide Order No. L-12012/131/81-D.II.A., dated 13th November, 1981, made the reference of the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Bank of India in not absorbing Shri Atin Kumar Bose, Temporary Clerk in the Bank's service and in terminating his services from 10.2.75 (afternoon), is justified? If not, to what relief is the workman concerned entitled?”

2. Mr. Atin Kumar Bose joined the service of Bank of India temporarily for two months on 3.4.74 at total emoluments of Rs. 426.30 per month. His service was extended to 10.2.75 with break of one day and he put in the service of 306 days for which he was paid by the Bank.

3. The workman's case is that his services could not be terminated without compliance with Section 25-F of the Industrial Disputes Act, 1947, because he has put in 240 days' service and he wanted reinstatement in service with full back wages and continuity of service.

4. The Management contested the claim. A preliminary objection was raised that a dispute had earlier been raised about this workman's termination of service, but the same was not pursued and was withdrawn from the conciliation proceedings on 28th August, 1975 and in view of that withdrawal, no dispute remained and the present reference was said to be bad and liable to be rejected on that ground.

5. In any case, the reference was said to be too belated and was said to be liable to be rejected on that account also. He was said to be debarred from raising reference when the same was not proceeded with earlier.

6. On merits, it was pleaded that the workman was appointed only as a temporary employee without any medical examination and that his temporary service period of 2 months was extended only because permanent staff could not be recruited and the permanent staff, on the basis of test and interview, was appointed and his services were terminated. The workman had also applied for the regular service, but he failed in the test and could not be selected for permanent employment and it was his failure in the test that he could not continue in the employment of the Bank.

7. The facts are not in dispute, but the relief to be granted to the workman is to be examined.

8. The right of the Management of Bank of India to terminate the services of this workman is not in dispute. What is in dispute is the manner of exercise of that right. It is now settled law that the Industrial Disputes Act, 1947, as a special law, overrides the provisions of Sastri Award, Desai Award and/or Bipartite settlement.

9. Accordingly, it was necessary for the Bank to terminate the services of the workman, who had completed 240 days' service with the Bank, by giving him retrenchment compensation as also notice-pay. That was not done, and Section 25-F of the I.D. Act, 1947 was violated in this case, when that provision was applicable to him and he has rendered 306 days service prior to the termination of his service.

10. The ordinary consequence of breach of Section 25-F is that the termination of service is void ab initio and reinstatement in service with full back wages is to be ordered, but in this case that cannot be done. Firstly, because his case has been withdrawn in conciliation proceedings in August, 1975 and the reference was made later in 1980. The second reason is that he had failed in the test for permanent recruitment in the bank service. He can be reinstated only to have his services terminated the first opportunity by the Bank on payment of retrenchment compensation and compliance with Section 25-F of the I.D. Act. It is a fit case where compensation may be given, in lieu of reinstatement in service with full backwages.

11. The reference is not barred nor is the workman estopped on account of withdrawal of claim from conciliation proceedings in August, 1975, but that is a factor to be taken into consideration in giving the relief to the workman.

12. On consideration of all these factors, I fix Rs. 25,000 as compensation to be paid by the Bank of India to the workman, Shri Atin Kumar Bose, for termination of service made in breach of Section 25-F of the I.D. Act, 1947 and a direction is issued to the Management of Bank of India to pay Rs. 25,000 (Rupees Twentyfive thousand only). The reinstatement in service with full back wages is refused.

13. The award is made in the terms aforesaid.
December 12, 1983.

O. P. SINGLA, Presiding Officer
[No. L-12012/131/81/D-II(A)]

New Delhi, the 31st December, 1983

S.O. 105.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Bombay in the industrial dispute between the employers in relation to the management of Smt. N. D. Naik, Owner of Launch 'ML. DEBEN', Goa and their workmen, which was received by the Central Government on the 19th December, 1983.

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, BOMBAY
CAMP : GOA**

Reference No. CGIT-2/5 of 1983

PARTIES :

Employer in relation to the Management of
Smt. N. D. Naik, Owner of Launch 'ML
DEBEN' Goa

AND

Their workmen

APPEARANCES :

For the Employer—Shri D. B. Naik.

For the Workmen—No appearance.

INDUSTRY : Ports and Docks STATE : Goa,
Daman & Diu

Mormugao, dated the 8th November, 1983

AWARD

(Dictated in the Open Court)

By their Order No. E-36011(9)/82-D.IV(A), dated Nil January, 1983 the following dispute has been referred for adjudication by the Central Government.

"Whether the action of Smt. N.D. Naik, Owner of Launch 'ML DEBEN' in terminating the service of S/Shri Mahadeo Kumtekar, Uttam Prakesh, Laxman Parab and Sadanand Gotankar, Launch crew with effect from 6-4-1982 is justified ? If not, to what relief the concerned workmen are entitled ?"

The dispute as it stands relates to the alleged termination of service with effect from 6-4-82, of S/Shri Mahadeo Kumtekar, Uttam Prakash, Laxman Parab and Sadanand Gotankar. The statements of claim however has been filed on behalf of Shri Sadanand Gotankar, Shri Uttam Prabhu and Shri Laxman Parab and not by Shri Mahadeo Kumtekar. Shri Uttam Prabhu is also not a workman involved in the Reference because his name is absent in the order.

According to Shri Sadanand Gotankar he was in continuous service with the opponent for more than 6 years prior to the alleged retrenchment and he complains that his services were terminated without following the procedure laid down by law whereby he refers to Section 25F and therefore claims the reliefs like full back wages and order of reinstatement.

Shri Laxman Parab claims to be in service for more than 6 years and his challenge to the order of termination is on the same ground as the co-workman.

By the written statement the management is challenging the jurisdiction of the Tribunal on the ground that the launch in question registered with the Captain of Ports Mormugao, State Government employee was an inland steam vessel carrying ferry passengers and cargo and therefore the appropriate Government would be the State Government and not the Central one. The opponents deny the service of Mahadeo Kumtekar, Uttam Prakesh and Sadanand Gotankar, according to their service the names of the workmen S/Shri Mahadevappa Kumtekar, Laxman V. Parab, and Sadanand Kotarkar. It is further contented that Shri Uttam Parab was engaged as a Sarang with effect from 1-12-77 on monthly salary of Rs. 515, Shri Laxman Parab, as Khalasi from 1-12-81 on monthly salary of Rs. 330, and Shri Sadanand Kotarkar with effect from 15-12-81 as Khalasi on monthly wages of Rs. 330. It is further alleged that Shri Mahadevappa Kumtekar was employed as a Driver with effect from 1-11-81 on monthly wages of Rs. 515.

It is further contented that despite an agreement entered into by the workmen who had agreed not to resort to strike without any notice and not to raise any fresh demands, on 5th April, 1982 the workmen struck the work as a result of which by letters dated 9-4-82 the services were terminated and the wages for the month of March, 1982, those for the period 1-4-82 to 5-4-82 and wages in lieu of notice were despatched but the cheques were returned back.

In the light of the contentions raised by the opponents, which stands undisputed it is evident that the vessel was registered with Captain of Port. authority

of Goa Government and therefore the appropriate Government as defined under Section 2(a)(i) would be the State Government and hence viewed accordingly, this Tribunal has no jurisdiction to entertain the Reference. There is absolutely no proof that vessel is used for the activity of the Port.

But assuming that Tribunal has jurisdiction, the question of period of service put in by each of the workmen would be the crux of the whole matter. In case the workmen are in a position to prove their contention of having put in more than 6 years of service then any termination whether simplicitor or otherwise would amount to retrenchment attracting the provisions of Section 25F and unless the requirements are fulfilled, the termination would be vitiated and the workmen would be entitled to reliefs like back wages and reinstatement. However when the burden was on the workmen to establish the length of service neither Shri Sadanand Kotarkar nor Shri Laxman Parab remained present on the dates of hearing with the result there is no evidence on the record except the admission of the management in the written statement which is not to help the workmen because Shri Laxman Parab is stated to be in service from 1-12-81 while Shri Sadanand Kotharkar from 15-12-81 and if the termination is stated 6-4-82, these workmen cannot be said to have put in more than one year continuous service so as to attract the provisions of Section 25F. In the absence of any proof and in the light of the assertion, the main requirement to vitiate the termination is absent and therefore none of the workmen can claim any relief. I have already stated the statements of claims have filed only on behalf of Shri Laxman Parab and Shri Sadanand Kotharkar and not for and on behalf of other workmen referred to in the order of Reference. Shri Uttam Prabhu who has filed the statement is not a party to the Reference.

Although the workmen are not entitled to any relief, from the written statement it appears that the management had remitted the arrears of one months wages in lieu of notice which have remained unclaimed. The management is therefore directed to re-remit the money by cheque to the respective workman within one month from the date of the publication of Award otherwise the amount shall carry future interest of 9 per cent per annum from the date of Reference till the date of discharge of liability. In case the letters containing cheques are refused to be accepted or returned, the duty of the management will be over and thereafter they shall be liable to pay only the amount so offered without future interest as ordered.

Other reliefs are rejected.

Award accordingly.

M. A. DESHPANDE, Presiding Officer

[No. L-36011/9/82/D-IV A]

S.O. 106.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal

No. II, Bombay in the industrial dispute between the employers in relation to Shri Jagannath K. Arolkar, Owner of Launch 'ML NANDA', Goa and their workmen, which was received by the Central Government on the 19th December, 1983.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, BOMBAY
CAMP : GOA

Reference No. CGIT-2/12 of 1983

PARTIES :

Employers in relation to Shri Jagannath K. Arolkar, Owner of Launch 'ML NANDA', Goa.

AND

Their workmen

APPEARANCES :

For the Employers.—Shri S. N. Karmali, Advocate.

For the workmen.—No appearance.

INDUSTRY : Ports & Docks STATE : Goa, Daman & Diu

Mormugao, dated the 12th November, 1983

AWARD PART-II

(Dictated in the Open Court)

By their order No. L-36011/15/82-D.IV(A), dated 28-2-1983 the Central Government referred the following dispute for adjudication.

"Whether the action of Shri Jagannath Arolkar, Owner of Launch 'ML Nanda' in stopping S/Shri Pandari A. Tari Sawant and Laxman Vast from work with effect from 6-4-1982 is justified? If not, to what relief the workmen are entitled?"

As the dispute stood, it related to 2 employees out of whom by award dated 2-7-83 the matter between Shri Laxman Vast and the employer is settled, and therefore the dispute between Shri Pandari A. Tari Sawant only remains.

Despite repeated adjournments neither the workman nor the Union representative remained present and though the matter was fixed for orders today there is no appearance on workman's behalf. By the written statement filed on behalf of the employers they are denying the claim in toto, especially the claim of the workman about his service for more than 3 years. However, there is an offer which was made even in the month of April, 1982 to pay a sum of Rs. 1320.85 and since that offer still stands, although the workman has failed to establish his case, it is hereby ordered that the employer shall pay the sum of Rs. 1320.85 to Shri Pandari A. Tari Sawant by sending the cheque of the even amount by Registered post to the address

of the workman. In case for any reason the said cheque is returned back, on the strength of the present award the workman shall be entitled to collect those dues any time subsequently.

In view of the offer and in view of the Award Part-I the question of jurisdiction so far as this Reference is deemed to have been given up. Rest of the claim rejected.

Award accordingly.

M. A. DESHPANDE, Presiding Officer
[No. L-36011/15/82D-IV(A)]

S.O. 107.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. II, Bombay in the industrial dispute between the employers in relation to Shri Caetano Rodrigues, Owner of Launch, M. L. Remy, Goa and their workmen, which was received by the Central Government on the 19th December, 1983.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, BOMBAY, CAMP : GOA

Reference No. CGIT-2/10 of 1983

PARTIES :

Employers in relation to Shri Caetano Rodrigues, Owner
of Launch 'MI Remy', Goa

AND

Their workmen.

APPEARANCES :

For the Employer—Shri S. N. N. Karmali, Advocate.

For the Workmen—No appearance.

INDUSTRY : Ports and Docks STATE : Goa,
Daman and Diu

Mormugao, dated the 12th November, 1983

AWARD

(Dictated in the Open Court)

By their order No. L-36011/10/82-D.IV(A), dated 28-2-83 the Central Government has referred the following dispute for adjudication.

"Whether the action of Shri Caetano Rodrigues, Owner of Launch 'ML REMY' in stopping Shri Prabhakar P. Gaocar from work w.e.f. 6-4-1982 is justified? If not, to what relief the workman is entitled to?"

The workman in support has filed the statement of claim in reply to which there is the written statement filed on behalf of the employer and there is also rejoinder filed by him whereby various contentions including the contention regarding the challenge to the jurisdiction have been raised.

On behalf of the employer the statement recorded today whereby he admits the service of the workman from the year 1978 and the termination in the month of April, 1982, When the workman was drawing the salary of Rs.515/- p.m. If the workman was in service for 4 years then under Section 25F of the Industrial Disputes Act at the time of termination which would be a retrenchment, the workman would be entitled to compensation equal to 15 days wages for each years service besides the notice pay and in this way if he was in service for 4 years the employer is liable to pay 2 months wages by way of retrenchment compensation one months wages in lieu of notice period besides whatever arrears were payable to him. However on deducting Rs. 392 in all Rs. 1131.85 were offered which sum includes Rs. 515/- by way of wages in lieu of notice. Therefore there is no offer of payment of Rs. 1030/- by way of compensation for 2 months which the employers undertake to pay.

The workman has remained all along absent and same is the case with the representative of the Union with the result that the proceeding proceeded in his absence. The evidence is that immediately on termination the workman has joined the service of other launch owner on same wages of Rs. 515 and therefore he is gainfully employed and though I find that the compensation as required by Section 25F was not paid there is no need to order reinstatement nor any question of order of back wages. Therefore the employer shall pay Rs. 2,161.85 under the present award, on payment of which the liability of the Reference shall stand discharged. No order of reinstatement or back wages for the reasons stated is passed.

Employer has raised a contention regarding jurisdiction but so far as the present Reference is concerned Mr. Karmali on behalf of the employer gives up the same.

Award accordingly.

M. A. DESHPANDE, Presiding Officer
[No. L-36011/10/82-D.IV(A)]

S.O. 108.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Bombay in the Industrial dispute between the employers in relation to Shri Conceicao Pereira, Owner of Launch 'ML JOSEPH ANSELMO', Goa and their workman, which was received by the Central Government on the 19th December, 1983.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, BOMBAY CAMP : GOA

Reference No. CGIT-2/13 of 1983

PARTIES :

Employers in relation to Shri Conceicao Pereira, Owner
of Launch 'ML JOSEPH ANSELMO, Goa

AND

Their workmen

APPEARANCES :

For the Employer—Shri S. N. N. Karmali, Advocate.

For the Workmen—Shri A. D. 'Costa, Advocate.

INDUSTRY : Ports and Docks STATE : Goa, Daman
and Diu

Mormugao, dated the 12th November, 1983

AWARD

(Dictated in the Open Court)

By their order No. L-36011/16/82/DIV (A), dated 28th
February, 1983 Central Government has referred the follo-
wing dispute for adjudication.

"Whether the action of Shri Conceicao Pereira, Owner
of Launch 'ML JOSEPH ANSELMO' in stopping
S/Shri Jose Vaz, Antony Fernandes and Jose
Fernandes, Launch crew from work with effect from
6-4-1982 is justified? If not, to what relief the con-
cerned workmen are entitled?"

In support of the respective contentions workmen filed
the statement of claim which has been refuted by the em-
ployer by the written statement and on the basis of these
pleadings issues have also been framed.

However during the course of the hearing of the matter,
the same was settled whereby the employer agrees to pay a
sum of Rs. 1000 to the workman who agreed to accept
it in full and final settlement of his claim under the Reference.
There is a contention of jurisdiction but in view of the
settlement so far as the present Reference is concerned that
contention shall be deemed to have been given up. In view
of offer payment of Rs. 1000/-, the Reference disposed off
as settled.

Award accordingly.

M. A. DESHPANDE, Presiding Officer,

[No. L-36011/16/82-D.IV(A)]

S.O. 109.—In pursuance of section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the
Central Government hereby publishes the following
award of the Central Government Industrial Tribunal
No. 2, Bombay in the industrial dispute between the
employers in relation to the management of Shri
Datta B. Naik Owner of Launch 'ML Sudan', Goa
and their workmen, which was received by the Cen-
tral Government on the 19th December, 1983

BEFORE THE CENTRAL GOVERNMENT IN-
DUSTRIAL TRIBUNAL NO.2, BOMBAY
CAMP : GOA

Reference No. CGIT-2/3 of 1983

PARTIES :

Employers in relation to the management of Shri
Datta B. Naik, owner of Launch 'ML SUDAN'

AND

Their Workmen,

APPEARANCES:

For The Employers.—Shri D.B.Naik.

For The Workmen.—No appearance.

INDUSTRY : Ports & Docks STATE : Goa, Daman
& Diu

Mormugao, dated the 8th November, 1983

AWARD PART-II

By their reference order No. L-36011(6)/82-D.
IV(A) dated 20-1-1983 the following Reference
has been made for adjudication.

"Whether the action of Shri Datta B.Naik
owner of Launch, 'ML SUDAN' in termi-
nating the service of S/Shri Maruti Mang-
eshkar, Chandrakant Saletkar and Roldao
D'Souza, Launch Crew with effect from
6-4-1982 is justified ? If not, to what relief
are the concerned workmen entitled?"

The Reference as it stands is on account of all-
eged termination of the services of S/Shri Maruti
Mangeshkar, Chandrakant Saletkar and Roldao D'
Souza, dated 6-4-1982. From the claim statement
filed by the two workmen viz. S/Shri Maruti Mange-
shkar and Chandrakant Saletkar, the contention of
the first named appears to be that he was in con-
tinuous service with the opponents for more than 9
years prior to the date of retrenchment and he com-
plains that although the termination was by way of
retrenchment, no legal dues as required under Sec-
tion 25F of the Industrial Disputes Act were paid,
rendering the retrenchment illegal. On this ground
the workman is demanding full back wages with con-
tinuity of service and also the reinstatement.

By a similar claim statement filed by the second
named workman, he claims to be in service of the
opponent for more than 7 years and also says that
the termination effected was in contravention of Sec-
tion 25F of the I.D. Act and therefore illegal and he
claims the same relief as in the case of first workman.

The Reference as already stated related also to the
dispute between Shri Roldao D'Souza and the op-
ponents, but by an award dated 8-6-83, the same
was reported to have been settled and therefore
Part-I award.

By the written statement filed on behalf of the management the jurisdiction of the Tribunal to entertain the dispute has been challenged on the ground that the vessel in question being operated in the inland waters, State Government is the appropriate Government and not the Central Government.

It is further contented that Shri Maruti Mangeshkar was employed on 14-10-81 as a Sarang, while the second workman viz. Shri Chandrakant Saletkar was appointed as a Khalasi w.e.f. 1-1-82. It is further alleged that although there was a settlement whereby no strike was to be resorted to without a notice and the workman were not to ask for any fresh rise, these workmen struck work on 5th April, 1982, on which day a show cause notice was issued to all of them but since it remained unreplied, by a letter dated 9-4-82 the services were terminated of the two workmen who were offered their salary as stated in the written statement, which amounts were despatched by cheques dated 10-4-82. It is therefore contented that the termination being termination simplicitor and the dues having been paid, no relief can be granted to these workmen.

In the light of the contentions raised by the opponents, which stand undisputed it is evident that the vessel was registered with the Captain of Port, authority of Goa Government and therefore the appropriate Government as defined under Section 2(a)(i) would be the State Government and hence viewed accordingly, this Tribunal has no jurisdiction to entertain the Reference. There is absolutely no proof that vessel is used for the activity of the Port.

But assuming that this Tribunal has jurisdiction. It would not solve the workman's difficulties. Before they can claim any relief against the alleged wrongful termination, they must bring their case under Section 25F of the Industrial Disputes Act and then along violation of those terms would result in quashing of the termination. Under Section 25F the workman must be in continuous service for not less than one year and then alone he is entitled to the requirements as stated in clauses (a), (b) and (c). In the instant case although Shri Chandrakant claims to be in service for 7 years and Shri Maruti for 9 years, there is no proof of their service and on the contrary according to the employers Shri Maruti was in service from 14-10-81 and Shri Chandrakant from 1-1-82. Had the contention of the workman either been proved or admitted, the termination on 9-4-82 though described as termination simplicitor, would still amount to the retrenchment requiring the fulfilment of clauses (a) and (b) which admittedly in the instant case has not been done and there would not have been any difficulty in ordering full back wages as well as reinstatement. However, since the workmen have remained absent, since there is no proof of their service for 7 or 9 years as contented against which there is admission of 6 months and 3 months only, the pre requisite of Section 25F is absent and therefore the reliefs which normally would have been granted viz. full back wages and reinstatement, cannot be done, although I have held the point of jurisdiction in favour of the workmen.

In the written statement there is reference to remittance of Rs. 1,661.85p. to Shri Chandrakant and Rs. 312/- to Shri Maruti, by cheque but I am told by Shri D.B Naik who is present today that the cheques have been returned with the postal endorsement "refused". Since the management had agreed to pay the amount, the workmen are entitled to receive the same. It is therefore hereby directed that the management shall pay the sum of Rs. 1,661.85 p. to Shri Chandrakant and Rs. 312/- to Shri Maruti, the two workmen referred to in the order of Reference, within one month from the date of this order otherwise the amount shall carry future interest from the date of reference till the date of discharge of the liability at the rate of 9 per cent per annum. In case the letters containing cheques are refused to be accepted, the duty of the management will be over and thereafter they shall be liable to pay only the net amount so offered without future interest as ordered.

Award accordingly.

M.A. DESHPANDE, Presiding Officer.

[No. L-36011/6/82/D-IV(A)]

S.O. 110.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. II Bombay in the industrial dispute between the employers in relation to Shri Benny S. Rodrigues, Owner of Launch 'ML BENSONS' and their workmen, which was received by the Central Government on the 19th December, 1983.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, BOMBAY
CAMP : GOA

REFERENCE NO. CGIT-2/30 OF 1983

PARTIES :

EMPLOYERS IN RELATION TO
Shri Benny S. Rodrigues, Owner of Launch
'ML BENSONS', GOA

AND

Their workmen

APPEARANCES:

For the Employer.—Shri S.R.N. Karmali,
Advocate.

For the Workmen.—No appearance.

INDUSTRY : Port & Docks STATE : Goa
Daman & Diu

Mormugao, dated the 12th November, 1983.

AWARD

(Dictated in the Open Court)

By their order No. L-36011/3/83/IV(A), dated 25-8-83 the following dispute was referred to this Tribunal for adjudication.

"Whether the action of Shri Benny S. Rodrigues, Owner of Launch 'ML BENSONS' in terminating the services of Shri Shashikant Joshi Prabhakar Naik and Murla Maludin w.e.f. 6-4-1982 is justified? If not, to what relief the said workmen are entitled to?"

Although the dispute refers to the termination of service, on issue of notices, neither the workmen nor the Union representative remained present on 11-10-83 and the history repeated when the matter stood adjourned for orders today. No statement of claim has been filed. Against this the employer and his advocate are present and they have produced 3 vouchers whereby the workmen in question are reported to have accepted the dues in full and final settlement of their claims. In the order of Reference last named workman is shown be Murla Maludin but I was told that the real name of the workman is Ibrahim H. Mulla and that there is no workman by name Murla Maludin in the service of Shri Rodrigues the owner of Launch in question. Shri Ibrahim H. Mulla along with two other workmen whose names are correctly appearing also accepted the dues in full and final settlement and because of this reason viz. of the workmen having settled their dues, it is just possible no longer they are interested in prosecuting the matter and therefore have neglected either to attend the date fixed and also to file the statement of claim within the period prescribed from the date of service of initial notice. Be it as it may since the workmen are absent against which there is a proof of full and final settlement of their claim, the Reference can not survive and as such stands disposed off.

M.A. DESHPANDE, Presiding Officer.

[No. L-36011/3/83/D.IV(A)]

New Delhi, the 2nd January, 1984

S.O. 111.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workmen, which was received by the Central Government on the 16th December, 1983.

BEFORE THE INDUSTRIAL TRIBUNAL
(CENTRAL) AT HYDERABAD.

Industrial Dispute No. 10 of 1981.

BETWEEN

Workmen of Visakhapatnam.
Port Trust, Visakhapatnam.

AND

The Management of Visakhapatnam Port Trust,
Visakhapatnam.

APPEARANCES :

Sri N. Seshachari, Advocate for the workmen.
Sarvasri K. Srinivasa Murthy and K. Satyanarayana Rao, Advocates for the Management.

AWARD

The Government of India by its Order No. L-34011 (2)/81-D.IV(A), dt. 5-6-1981 referred the following dispute under Sections 7A and 10(1)(d) of the Industrial Disputes Act, 1947 between the Management of Visakhapatnam Port Trust, Visakhapatnam and their Workmen, to this Tribunal for adjudication :

"Whether the action of the management of Visakhapatnam Port Trust, in denying to their ministerial staff one day's extra wages for the 6th January, 1980, Holiday declare for Lok Sabha elections, is Justified?"

If not, to what relief are the concerned workmen entitled?"

2. Though claims statement is filed on behalf of the Workmen and counter by the Management, the workmen were never reporting for enquiry. This is an old matter of 1981. For the last several adjournments the Workmen and their representative were being called absent. In order to give one more chance to the workmen, the matter is again adjourned and posted to this day. The workmen and their counsel are called absent this day also. As the Workmen are never evincing any interest in the matter and have remained absent, with reluctance they are set ex-parte. As there is no evidence adduced in support of the claims of the workmen and as they remained ex-parte, it has to be held that the claim of the Workmen is not proved and the Workmen are therefore not entitled to any relief.

Award passed in these terms.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of this Tribunal, this the 30th day of November, 1983.

SRI M. SRINIVASA, Presiding Officer

[No. L-34011/2/81/D-IV(A)]

S. S. PRASHER, Desk Officer

नई दिल्ली, 3 दिसम्बर, 1983

का० आ० 112.—केन्द्रीय सरकार की राय है कि इस से उपाख्य अनुसूची में निर्दिष्ट विषय के बारे में मैसर्स वेस्ट सुकेत को-ऑपरेटिव लेबर कन्ट्रैक्टर सहकारी समिति लिमिटेड, मुकाम सुकेत, जिला कोटा से सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मचारियों के बीच विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की

उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेन्द्र भूषण होंगे, जिनका मुख्यालय जयपुर में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

क्या मैसर्स वेस्ट सुकेत को-ऑपरेटिव लेबर कन्ट्रैक्टर सहकारी समिति लिमिटेड, मुकाम सुकेत, जिला कोटा द्वारा नियोजित कर्मचारियों की निम्नलिखित मांगें न्यायोचित हैं? यदि हां तो वो संबंधित कर्मकार किस अनुसूच का हकदार है?

मांगें

1. 600 रुपए प्रति माह तक प्राप्त करने वाले मासिक दर कर्मचारियों को 1-10-82 से 80 रु० प्रति माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।
2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारों (अकुशल श्रमिकों) को 1-10-82 से दैनिक मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।
3. सभी पत्थर काटने वालों (कारीगरों) को 1-10-82 से प्रति 107 वर्ग फुट पत्थर काटने के लिए 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल-29012/15/83-डी-3 (बी)]

New Delhi, the 3rd December, 1983

S.O. 112.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to Messrs West Suket Cooperative Labour Contractor Sahakari Samiti Ltd, Mukam Suket, District Kota and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Messrs West Suket Cooperative Labour Con-
1242GI/83-4

tractor Sahakari Samiti Ltd., Mukam Suket, District Kota are justified? If so, to what relief are the workmen concerned entitled?

DEMANDS

1. An increase of Rs. 80 per month should be given to monthly-rated employees drawing upto Rs. 600 per month and an increase of Rs. 120 per month to those drawing over Rs. 600 per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs. 12 as daily wage and those who work for 180 days in a year be paid Re. 1 per day as attendance (Hazari) allowance in addition, with effect from 1-10-1982.

3. All stone cutters (Karigars) should be paid at the rate of Rs. 15 per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs. 2 per 100 sq. ft. of stone cutting, with effect from 1-10-1982.

[No. L-29012/15/83-D.III(B)]

का० भा० 113:—केन्द्रीय सरकार की राय है कि इससे उपायद्व अनुसूची में विनिर्दिष्ट विषय के बारे में श्री ईवा भाई कासिम भाई, मालिक से सम्बद्ध नयागांव चूना पत्थर खान मुकाम सुकेत, जिला कोटा।

एक औद्योगिक नियोजकों और उनके कर्मचारों के बीच विद्यमान है।

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है?

अतः, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेन्द्र भूषण होंगे, जिनका मुख्यालय जयपुर में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

क्या श्री ईवा भाई कासिम, भाई, मालिक नयागांव चूना पत्थर खान, मुकाम सुकेत, जिला कोटा द्वारा नियोजित कर्मचारों की निम्नलिखित मांगें न्यायोचित हैं? यदि हां तो संबंधित कर्मकार किस अनुसूच का हकदार है?

मांगें

1. 600 रुपए प्रति माह तक प्राप्त करने वाले मासिक दर कर्मचारियों को 1-10-82 से 80 रु० प्रति माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।
2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारों (अकुशल श्रमिकों) को 1-10-82

में दैनिक मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।

3. सभी पत्थर काटने वालों (कारीगरों) 1-10-82 से प्रति 107 वर्ग फुट पत्थर काटने के लिए 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल-26015/17/83-डी-3 (बी)]

S.O. 113.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to Shri Ida Bhai Kasim Bhai, Nayagaon Lime Stone Mine Owner, Mukam Suket, District Kota and their workman in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by Section 7A, and clause (d) of sub-section (1) of section 10 of the Industrial disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Shri Ida Bhai Kasim Bhai, Nayagaon Lime Stone Mine Owner, Mukam Suket, District Kota are justified? if so, to what relief are the workmen concerned entitled?

DEMANDS

1. An increase of Rs. 80/- per month should be given to monthly-rated employees drawing upto Rs.600/- per month and an increase of Rs. 120/-per month to those drawing over Rs. 600/- per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs. 12/- as daily wage and those who work for 180 days in a year be paid Re. 1/- per day as attendance (Hazari) allowance in addition, with effect from 1-10-1982.

3. All stone cutters (Karigars) should be paid at the rate of Rs. 12/- per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs. 2/- per 100 sq. ft. of stone cutting, with effect from 1-10-1982.

[No. I-26015/17/83-D.III (B)]

का० आ० 114.—केन्द्रीय सरकार की राय है कि इससे उपायद्व अनुसूची में विनिर्दिष्ट विषय के बारे में मैसर्स ईस्ट सुकेट श्रमिक ठाका पशान उद्योग, सहकारी समिति लिमिटेड, मालिक चूना पत्थर खान सुकेट, जिला कोटा से सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मचारियों के बीच विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उप-धारा (i) के खंड (ब) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेन्द्र भूषण होंगे, जिनका मुख्यालय जयपुर में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

क्या मैसर्स ईस्ट सुकेट श्रमिक ठाका पशान उद्योग सहकारी समिति लिमिटेड मालिक चूना पत्थर खान, सुकेट, जिला कोटा द्वारा नियोजित कर्मचारियों की निम्नलिखित मांगें न्यायोचित हैं?

यदि हाँ तो संबंधित कर्मकार किस अनुतोष का हकदार है ?

मांगें

1. 600 रुपए प्रति माह तक प्राप्त करने वाले मासिक दर कर्मचारियों को 1-10-82 से 80 रु० प्रति माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।

2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारी (अकुशल श्रमिकों) को 1-10-1982 से दैनिक मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।

3. सभी पत्थर काटने वालों (कारीगरों) को 1-10-82 से प्रति 107 वर्ग फुट पत्थर काटने के लिए 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल०-29012/20/83-डी०-3(बी)]

S.O. 114.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to Messrs East Suket Shramik Thaka Pashan Udyog Sahakari Samiti Ltd. Lime Stone Mine Owner, Suket, Kota and their workmen in respect of the matters specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by Section 7A, and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Messrs East Suket Shramik Thaka Pasban Udyog Sahakari Samiti Ltd., Lime Stone Mine Owner, Suket, Distt. Kota are justified? If so, to what relief are the workmen concerned entitled?

DEMANDS

1. An increase of Rs. 80/- per month should be given to monthly-rated employees drawing upto Rs. 600/- per month and an increase of Rs. 120/- per month to those drawing over Rs. 600/- per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs. 12/- as daily wage and those who work for 180 days in a year be paid Rs. 1/- per day as attendance (Hazari) allowance in addition, with effect from 1-10-1982.

3. All stone cutters (Karigars) should be paid at the rate of Rs. 15/- per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs. 2/- per 100 sq. ft. of stone cutting, with effect from 1-10-1982.

[No. L-29012/20/83-D.III (B)]

का० आ० 115.—केन्द्रीय सरकार की राय है कि इसमें उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में श्रीहामिद, सुपुत्र नाने खान, मालिक कुकरा खूना पत्थर खान, मुकेत जिला कोटा में सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मचारियों के बीच विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उप-धारा (i) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेन्द्र भूषण होंगे, जिनका मुख्यालय जयपुर में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

क्या श्री हामिद सुपुत्र श्री नाने खान, मालिक कुकरा खूना पत्थर खान, मुकेत जिला कोटा द्वारा नियोजित कर्मचारियों की निम्नलिखित मांगें न्यायोचित हैं ?

यदि हाँ, तो संबंधित कर्मकार किस अनुतोष के हकदार हैं ?

मांगें

1. 600 रुपए प्रति माह तक प्राप्त करने वाले मासिक दर कर्मचारियों को 1-10-82 से 80 रु० प्रति माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।

2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारों (अकुशल श्रमिकों) को 1-10-1982 से दैनिक

मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।

3. सभी पत्थर काटने वालों (कारीगरों) को 1-10-82 से प्रति 107 वर्ग फुट पत्थर काटने के लिए 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल०-26015/16/83-डी०-3 (बी)]

S.O. 115.—Whereas the Central Government is of the opinion, that an industrial dispute exists between the employers in relation to Shri Hamid S/o Shri Nanay Khan, Kukra Lime Stone Mine Owner Suket, District Kota and their workman in respect of the matters specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by Section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Central Government hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Shri Hamid S/o Shri Nanay Khan, Kukra Lime Stone Mine Owner, Suket, District Kota are justified? If so, to what relief are the concerned workmen entitled?

DEMANDS

1. An increase of Rs. 80/- per month should be given to monthly-rated employees drawing upto Rs. 600/- per month and an increase of Rs. 120/- per month to those drawing over Rs. 600/- per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs. 12/- as daily wage and those who work for 180 days in a year be paid Rs. 1/- per day as attendance (Hazari) allowance in addition, with effect from 1-10-82.

3. All stone cutters (Karigars) should be paid at the rate of Rs. 15/- per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs. 2/- per 100 sq. ft. of stone cutting, with effect from 1-10-1982.

[No. L-26015/16/83-D.III (B)]

का० आ० 116.—केन्द्रीय सरकार की राय है कि इसमें उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में श्री अब्दुल हाफिज, पुत्र अब्दुल रहमान मालिक अन्तरलिया खूना पत्थर खान, मुकाम साकेत, जिला कोटा में सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मचारियों के बीच विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उप-धारा (i) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेन्द्र भूषण होंगे, जिनका मुख्यालय जयपुर में होगा और विवाद को उक्त अधिकरण के न्याय-निर्णयन के लिए निर्देशित करती है।

अनुसूची

क्या श्री अब्दुल हाफिज पुत्र श्री अब्दुल रहमान मालिक अन्तरलिया चूना पत्थर खान, मुकाम साकेत, जिला कोटा द्वारा नियोजित कर्मचारियों की निम्नलिखित मांगे न्यायोचित हैं? यदि हां तो संबंधित कर्मकार किस अनुतोष के हकदार हैं?

मांगे

1. 600 रुपए प्रति माह तक प्राप्त करने वाले मासिक दर कर्मचारियों को 1-10-82 से 80 रु० प्रति माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।

2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारों (अकुशल श्रमिकों) को 1-10-1982 से दैनिक मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।

3. सभी पत्थर काटने वालों (कारीगरों) को 1-10-82 से प्रति 107 वर्ग फुट पत्थर काटने के लिए 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल०-26015/15/83-डी-3 (बी)]

S.O. 116.—Whereas the Central Government is of the opinion, mthat an industrial dispute exists between the employers in relation to Shri Abdul Hafiz S/o Shri Abdul Rehman, Antarla Lime Stone Mine Owner, Mukam Saket, district Kota and their workmen in respect of the matters specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by Section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Central Government hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Shri Abdul Hafiz S/o Shri Abdul Rehman,

Antarla Lime Stone Mine Owner, Mukam Saket, Distt. Kota are justified? If so, to what relief are the concerned workmen entitled?

DEMANDS

1. An increase of Rs. 80/- per month should be given to monthly-rated employees drawing upto Rs. 600/- per month and an increase of Rs. 120/- per month to those drawing over Rs. 600/- per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs. 12/- as daily wage and those who work for 180 days in a year be paid Rs. 1/- per day as attendance (Hazari) allowance in addition, with effect from 1-10-82.

3. All stone cutters (Karigars) should be paid at the rate of Rs.15/- per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs. 2 per 100 sq. ft. of stone cutting with effect from 1-10-1982.

[No. L-26015/15/83-D.III (B)]

का० आ० 117.—केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में श्री महबूब अली पटवारी, मालिक चूना पत्थर खान, मुकाम साकेत, जिला कोटा से सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मचारियों के बीच विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उप-धारा (i) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेन्द्र भूषण होंगे, जिनका मुख्यालय जयपुर में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

क्या श्री महबूब अली पटवारी, मालिक चूना पत्थर खान, मुकाम साकेत, जिला कोटा द्वारा नियोजित कर्मचारियों की निम्नलिखित मांगे न्यायोचित हैं?

यदि हां तो संबंधित कर्मकार किस अनुतोष के हकदार हैं?

मांगे

1. 600 रुपये प्रति माह तक प्राप्त करने वाले मासिक दर कर्मचारियों को 1-10-82 से 80 रु० प्रति माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।

2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारों (अकुशल श्रमिकों) को 1-10-1982 से दैनिक मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य

करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।

3. सभी पत्थर काटने वालों (कारीगरों) को 1-10-82 से प्रति 107 वर्ग फुट पत्थर काटने के लिए 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए, 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल०-29012/17/83-डी-3 (बी)]

नन्द लाल, अवसर सचिव

S.O. 117.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to Shri Mehboob Ali Patwari, Lime Stone Mine Owner, Mukam Suket, District Kota and their workmen in respect of the matters specified in the Schedule hereto annexed:

And, Whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Shri Mehboob Ali Patwari, Lime Stone Mine Owner, Mukam Suket, District Kota are justified? If so, to what relief are the workmen concerned entitled?

DEMANDS

1. An increase of Rs.80/- per month should be given to monthly rated employees drawing upto Rs. 600/- per month and an increase of Rs. 120/- per month to those drawing over Rs. 600/- per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs.12/- as daily wage and those who work for 180 days in a year be paid Rs.1/- per day as attendance (Hazari) allowance in addition, with effect from 1-10-1982.

3. All stone cutters (Karigars) should be paid at the rate of Rs.15/- per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs.2/- per 100 sq. ft. of stone cutting, with effect from 1-10-1982.

[No. L-29012/17/83-D.III (B)]

NAND LAL, Under Secy.

नई दिल्ली, 24 दिसम्बर, 1983

का० आ० 118—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 1984 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के

अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध राजस्थान राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात्:—

“ पाली की विस्तारित नगरपालिका

सीमाओं के अन्तर्गत आने वाले क्षेत्र। ”

[संख्या एस०-38013/32/83-एच० आई०]

New Delhi, the 24th December, 1983

S.O. 118.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st January, 1984 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Rajasthan, namely:—

“The areas comprised within the extended Municipal Limits of Pali.”

[No. S-38013/32/83-HI]

का० आ० 119—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 1984 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात्:—

“कोयम्बतूर जिले में कोयम्बतूर तालुक में तिरु-मलयमपालयम राजस्व ग्राम के अन्तर्गत आने वाला क्षेत्र। ”

[संख्या एस०-38013/31/83-एच० आई०]

S.O. 119.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st January, 1984 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except Sub-section (1) of section 76 and section 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamil Nadu, namely:—

“The area comprised within the revenue village Thirumalayampalayam in Coimbatore Taluk in Coimbatore District.”

[No. S-38013/31/83-HI]

का० आ० 120.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 1984 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध मध्य प्रदेश राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

“जिला रायसेन की गोहारगंज तहसील में मण्डीदीप के राजस्व ग्राम के अन्तर्गत आने वाले क्षेत्र।”

[संख्या एस०-38013/29/83-एच० आई०]

S.O. 120.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st January, 1984 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Madhya Pradesh, namely:—

“The area Comprised within revenue village of Mandideep in Tehsil Goharganj

District Raisen.

[No. S-38013/29/83-HI]

का० आ० 121.—कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 1984 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध गुजरात राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

“जिला वलसाड के नवसारी शहर की नगरपालिका सीमा और राजस्व सीमा के अन्तर्गत और ग्राम बेजाल पुर तथा काबिलपुर की पंचायत सीमा और राजस्व सीमा के अन्तर्गत आने वाले क्षेत्र।”

[संख्या एम०-38013/33/83-एच० आई०]

S.O. 121.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st January, 1984 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force]

of the said Act shall come into force in the following areas in the States of Gujarat, namely:—

“The area comprised within the Municipal limit and Revenue limit of Navsari Town and within the panchayat limit and

Revenue limit of village Vejalpur and Kabilpore, District Valsad.”

[No. S-38013/33/83-HI]

नई दिल्ली, 27 दिसम्बर, 1983

का० आ० 122.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स दस्तूर कन्टैक्ट लैबोरेटरी, 379, डी० एन० रोड, फोर्ट, बम्बई-400021, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उक्त उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस०-35018/59/83-पी० एफ०-2]

New Delhi, the 27th December, 1983

S.O. 122.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Dastoor Contact Laboratory, 379, D. N. Road, Fort, Bombay-400021 have agreed that provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35018 (59)/83-PF. II]

का० आ० 123.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सलैक्टिव मिनचम एण्ड कलर इण्डस्ट्रिज सेनीकेतन फर्ट फलोर नं०-7 माउंट रोड, माजगांव, बम्बई 10, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस०-35018/58/83- पी० एफ०-2]

S.O. 123.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Selective Minchem & Colour Industries, Sainiketan, First Floor, No. 7 Mount Road, Mazgaon, Bombay-10 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35018(58)/83-PF. II]

का० आ० 124.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स जे पी इन्जिनियरिंग वर्क्स 63, बेरक रोड, बेरकपुर, 24-प्रगना और इसका आफिस 17-ए इण्डियन मिरर स्ट्रीट, कलकत्ता-13, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस०-35017/140/83-पी० एफ०-2]

S.O. 124.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Jaypee Engineering Works, 63, Barrack Road, Barrackpore, 24-Parganas including its office at 17-A, Indian Mirror Street, Calcutta-13 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment ;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35017(140)/83-PF. II]

का० आ० 125.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स रेनबो प्रिंटिंग प्रेस, 4, अघाड़ी इण्डस्ट्रियल इस्टेट, सुभाष नगर, जोगेशवरी (ईस्ट), बम्बई-400060 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस०-35018/60/83-पी० एफ०-2]

S.O. 125.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Rainbow Printing Press, 4, Aghadi Industrial Estate, Subhash Nagar, Jogeshwari (East), Bombay-400060 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35018(60)/83-P.F. II]

का० आ० 126.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स कन्सोलिडेटेड इक्विपमेण्ट्स (इण्डिया) लि०, 11, क्लिव रो, फोरथ फ्लोर, कलकत्ता-1 और फैक्ट्री 25, पञ्चानन तला रोड, कलकत्ता-48, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस०-35017/141/83-पी० एफ०-2]

S.O. 126.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Consolidated Equipments (India) Limited, 11, Clive Row, 4th Floor, Calcutta-I and its 'Factory' at 25, Panchanantala Road, Calcutta-48 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment ;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35017(141)/83-PF. II]

का० आ० 127.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स आईडियल ट्रेडर्स क्रिम पाल्सेर, मार्किट रोड, मंगलूर-575001, कर्नाटक नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस०-35019/388/83/पी० एफ०-2]

S.O. 127.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ideal Traders Cream Parlour, Market Road, Mangalore-575001 Karnataka have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment

[No. S-35019(388)/83-PF II]

का० आ० 128.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स दी आल इन्डिया टी एण्ड ट्रेडिंग कम्पनी लि०, 13/2 बेली गंज पार्क रोड, कलकत्ता-19, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35017/143/83/पी० एफ-2]

S.O. 128.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs The All India Tea and Trading Company Ltd., 13/2, Bally-Gunge Park Road Calcutta-19 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35017(143)/83-PF. II]

का० आ० 129.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स आईडियल क्रीम पार्लर, जी० एच० एस० रोड, मंगलूर-575001, कर्नाटक नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019/391/83/पी० एफ-2],

S.O. 129.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ideal Cream Parlour, G.H.S. Road, Mangalore-575001-Karnataka, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952

(19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment

[No. S-35019(391)/83-PF. II]

का० आ० 130.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स बेन्दीगेरी एण्ड कम्पनी, कोटन मर्चेंट्स एण्ड कमीशन एजेंट्स, अन्नीगेरी जिला धारवाड, कर्नाटक नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019/387/83/पी० एफ-2]

S.O. 130.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Bendigeri and Company, Cotton Merchants and Commission Agents, Annigeri, Dharwar District, Karnataka have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/387/83-PF. II]

का० आ० 131.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स फिलको इन्डस्ट्रीज ए-6/2, मायापुरी इन्डस्ट्रियल एरिया फेज-2, नई दिल्ली-64, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019/386/83/पी० एफ-2]

S.O. 131.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Philco Industries, A-6/2, Mayapuri Industrial Area Phase-II, New Delhi-64 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/386/83-PF. II]

का० आ० 132—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स एक्स सर्विसमेन्स इण्डस्ट्रीजल गार्ड्स प्राविडेंट लिमिटेड, मैरिआम्बिका बिल्डिंग, बनेर्जी रोड, अरनाकुलम, कोचीन 682018, केरल नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस- 35019/385/83 पी० एफ-2]

S.O. 132.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ex-Servicemen's Industrial Guards (P) Limited, Mariambika Building, Banerjee Road, Ernakulam, Cochin-682018, Kerala have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/385/83-PF. II]

का०आ० 133—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स भारत टूल्स कार्पोरेशन, एस-22 इण्डस्ट्रीजल एरिया, जलन्धर-4, पंजाब नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस०-35019/384/83 पी० एफ-2]

S.O. 133.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Bharat Tools Corporation, S-22, Industrial Area, Jalandhar-4, Punjab, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/384/83-PF. II]

आ०का० 134—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स अनूप शिखा इण्डस्ट्रीज, सामोद हाउस, अमर रोड, जयपुर, राजस्थान नामक स्थापन के सम्बद्ध नियोजक और

कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019/383/83/पी० एफ-2]

S.O. 134.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Anup Shikha Industries, Samed House, Amer Road, Jaipur, Rajasthan have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/383/83-PF. II]

का०आ० 135—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स उत्कल वीवर को-ऑपरेटिव स्पनिंग मिल्स लिमिटेड, 163-ए, शहीद नगर, भुवनेश्वर-7, उड़ीसा नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस- 35019/382/83/पी० एफ-2]

S.O. 135.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Utkal Weavers' Co-operative Spinning Mills Limited, 163-A, Saheed Nagar, Bhubaneswar-7 Orissa have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/382/83-PF. II]

का० आ० 136—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स खरगोन थोक उपभोक्त भंडार मर्यादित मरगोन (एस० पी०) और इसकी खरगोन में स्थित शाखाएं खरगोन नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019/392/83-पी०एफ०-2]

S.O. 136.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Khargone Wholesale Consumers Co-op. Stores Ltd., Khargone including its branches at Khargone have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/392/83-PF.III]

का०आ० 137.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सम्राज इलेक्ट्रीकल्स, 5 सी, गोपाल चटर्जी रोड, कोसीपुर कलकत्ता-2 और उसका आफिस 51/1/1, एल रोड, बेलगाचिया, हावड़ा सहित नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस०-35017/142/83-पी०एफ० 2]

S.O. 137.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Sumach Electricals, 5C, Gopal Chatterjee Road, Cossipore, Calcutta-2 and its office at 51/1/1, L. Road, Belgachia, Howrah-8 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35017/142/83-PF.III]

का०आ० 138.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स आर्डीडियल आइसक्रीम कंपनी, फेलिक्सपई बाजार, जी०एच०एस० रोड, मैंगलूर-575001, कर्नाटक, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए

उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019/389/83-पी०एफ०-2]

S.O. 138.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ideal Ice Cream Company, Felix Pai Bazar, G.H.S. Road, Mangalore-575001, Karnataka have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said act to the said establishment.

[No. S-35019/389/83-PF.III]

(श्रम विभाग)

नई दिल्ली, 29 दिसम्बर, 1983

का० आ० 139.—मैसर्स सी० पी० कुरेजा इण्टर-नेशनल प्राईवेट लिमिटेड, के-13, होज खाम इनवनेव, नई दिल्ली-16 (दिल्ली 4225) (जिसे इन्होंने इसके पश्चात् उक्त स्थापना कहा गया है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 17 की उपधारा (2क) के अधीन छूट दिए जाने के लिए आवेदन किया है;

और केन्द्रीय सरकार का समाधान हो गया है कि उक्त स्थापन के कर्मचारी, किसी पृथक अभिधाय या प्रोमिसम के संदाय किए बिना ही, भारतीय जीवन बीमा निगम की सामूहिक बीमा स्कीम के अधीन जीवन बीमा के रूप में फायदा उठा रहे हैं और ऐसे कर्मचारियों के लिए ये फायदे उन फायदों से अधिक अनुकूल हैं जो कर्मचारी निधेय सहबद्ध बीमा स्कीम, 1976 (जिसे इसमें इसके पश्चात् उक्त स्कीम कहा गया है) के अधीन उन्हें अनुज्ञेय हैं;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (2क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और इससे उपावद्ध अनुसूची में विनिर्दिष्ट शर्तों के अधीन रहते हुए, उक्त स्थापन को तीन वर्ष की अवधि के लिए उक्त स्कीम के सभी उपबन्धों के प्रवर्तन से छूट तदेती है।

अनुसूची

1. उक्त स्थापन के संबंध में नियोजक प्रादेशिक भविष्य निधि आयुक्त, दिल्ली को ऐसी विवरणियां भेजेगा और ऐसे लेखा रखेगा तथा निरीक्षण के लिए ऐसी सुविधाएं प्रदान करेगा जो केन्द्रीय सरकार, समय-समय पर निदिष्ट करें।

2. नियोजक, ऐसे निरीक्षण प्रश्नारों का प्रत्येक मास को समाप्ति के 15 दिन के भीतर संदाय करेगा जो केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (3क) के अधीन समय-समय पर निदिष्ट करे।

3. सामूहिक बीमा स्कीम के प्रशासन में, जिसके अन्तर्गत लेखाओं का रखा जाता, विवरणियों का प्रस्तुत किया जाता, बीमा प्रीमियम का संचाय, लेखाओं का अन्तरण, निरीक्षण प्रभारों का संचाय आदि भी है, होने वाले सभी व्ययों का वहन नियोजक द्वारा किया जाएगा।

4. नियोजक, केन्द्रीय सरकार द्वारा अनुमोदित सामूहिक बीमा स्कीम के नियमों की एक प्रति, और जब कभी उनमें संशोधन किया जाए तब उस संशोधन की प्रति तथा कर्मचारियों की बहुसंख्या की भाषा में उसकी मुख्य बातों का अनुवाद, स्थापन के सूचना पट्ट पर प्रदर्शित करेगा।

5. यदि कोई ऐसा कर्मचारी, जो कर्मचारी भविष्य निधि का या उक्त अधिनियम के अधीन छूट प्राप्त किसी स्थापन की भविष्य निधि का पहले ही सदस्य है, उसके स्थापन में नियोजित किया जाता है तो, नियोजक, सामूहिक बीमा स्कीम के सदस्य के रूप में उसका नाम दुरुस्त दर्ज करेगा और उसकी वास्तव आवश्यक प्रीमियम भारतीय जीवन बीमा का संचय करेगा।

6. यदि उक्त स्कीम के अधीन कर्मचारियों को उपलब्ध फायदे बढ़ाये जाते हैं तो, नियोजक सामूहिक बीमा स्कीम के अधीन कर्मचारियों का उपलब्ध फायदों में समुचित रूप से वृद्धि की जाने की व्यवस्था करेगा जिससे कि कर्मचारियों के लिए सामूहिक बीमा स्कीम के अधीन उपलब्ध फायदे उन फायदों से अधिक अनुकूल हों, जो उक्त स्कीम के अधीन अनुज्ञेय हैं।

7. सामूहिक बीमा स्कीम में किसी बात के होते हुए भी, यदि किसी कर्मचारी की मृत्यु पर उस स्कीम के अधीन संचय रकम उस रकम से कम है जो कर्मचारी को उस दशा में संचय होती, जब वह उक्त स्कीम के अधीन होता तो, नियोजक कर्मचारी के विधिक वारिस/नामनिर्देशितों का प्रतिकर के रूप में दोनों रकमों के अन्तर के बराबर रकम का संचाय करेगा।

8. सामूहिक बीमा स्कीम के उपबन्धों में कोई भी संशोधन, प्रादेशिक भविष्य निधि आयुक्त, दिल्ली के पूर्व अनुमोदन के बिना नहीं किया जाएगा और जहाँ किसी संशोधन में कर्मचारियों के हित पर प्रतिकूल प्रभाव पड़ने की संभावना हो वहाँ, प्रादेशिक भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों का अपना दृष्टिकोण स्पष्ट करने का यत्न-युक्त अवसर देगा।

9. यदि किसी कारणवश, स्थापन के कर्मचारी, भारतीय जीवन बीमा निगम की उस सामूहिक बीमा स्कीम के जिसे स्थापन पहले अपना चुका है अधीन नहीं रह जाते हैं, या इस स्कीम के अधीन कर्मचारियों को प्राप्त होने वाले फायदे किसी रीति से कम हो जाते हैं; तो यह रद्द की जा सकती है।

10. यदि किसी कारणवश, नियोजक उस नियत तारीख के भीतर, जो भारतीय जीवन बीमा निगम नियत करे प्रीमियम का संचाय करने में असफल रहता है, और पानिसी का व्ययगत हो जाने दिया जाता है तो, छूट रद्द की जा सकती है।

11. नियोजक द्वारा प्रीमियम के संचाय में किए गए किसी व्यतिक्रम की दशा में, उन मृत सदस्यों के नामनिर्देशितों या विधिक वारिसों को जो यदि यह छूट न दी गई होती तो उक्त स्कीम के अन्तर्गत होते, बीमा फायदों के संचाय का उत्तरदायित्व नियोजक पर होता है।

12. उक्त स्थापन के संबंध में नियोजक, इस स्कीम के अधीन आने वाले किसी सदस्य की मृत्यु होने पर उसके हकदार नामनिर्देशितों/विधिक वारिसों को बीमाकृत रकम का संचाय तत्परता से और प्रत्येक दशा में भारतीय जीवन बीमा निगम से बीमाकृत रकम प्राप्त होने के सात दिन के भीतर सुनिश्चित करेगा।

[संख्या एस-35014/305/83-पी०एफ०-2]

New Delhi, the 29th December, 1983

S.O. 139.—Whereas Messrs C. P. Kukreja International Private Limited, K-13, Hauz Khas Enclave, New Delhi-16 (DL/4225), (hereinafter referred to as the said establishment) have applied for exemption under sub-section (2A) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act);

And whereas, the Central Government is satisfied that the employees of the said establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits under the Group Insurance Scheme of the Life Insurance Corporation of India in the nature of Life Insurance which are more favourable to such employees than the benefits admissible under the Employees Deposit-Linked Insurance Scheme, 1976 (hereinafter referred to as the said Scheme);

Now, therefore, in exercise of the powers conferred by sub-section (2A) of section 17 of the said Act and subject to the conditions specified in the schedule annexed hereto, the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme for a period of three years.

SCHEDULE

1. The employer in relation to the said establishment shall submit such returns to the Regional Provident Fund Commissioner, Delhi, maintain such accounts and provide such facilities for inspection, as the Central Government may direct from time to time.

2. The employer shall pay such inspection charges as the Central Government may, from time to time direct under clause (a) of sub-section (3A) of section 17 of the said Act, within 15 days from the close of every month.

3. All expenses involved in the administration of the Group Insurance Scheme, including maintenance of accounts, submission of returns, payment of insurance premium, transfer of accounts, payment of inspection charges etc. shall be borne by the employer.

4. The employer shall display on the Notice Board of the establishment, a copy of the rules of the Group Insurance Scheme as approved by the Central Government and, as and when amended, alongwith a translation of the salient features thereof, in the language of the majority of the employees.

5. Whereas an employee, who is already a member of the Employees' Provident or the Provident Fund of an establishment exempted under the said Act, is employed in his establishment, the employer shall immediately enrol him as a member of the Group Insurance Scheme and pay necessary premium in respect of him to the Life Insurance Corporation of India.

6. The employer shall arrange to enhance the benefits available to the employees under the Group Insurance Scheme appropriately, if the benefits available to the employees under the said Scheme are enhanced, so that the benefits available under the Group Insurance Scheme are more favourable to the employees than the benefits admissible under the said scheme.

7. Notwithstanding anything contained in the Group Insurance Scheme, if on the death of an employee the amount payable under this scheme be less than the amount that would be payable had employee been covered under the said Scheme, the employer shall pay the difference to the legal heir/nominee of the employee as compensation.

8. No amendment of the provisions of the Group Insurance Scheme shall be made without the prior approval of the Regional Provident Fund Commissioner, Delhi and where any amendment is likely to affect adversely the interest of the employees, the Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

9. Where, for any reason, the employees of the said establishment do not remain covered under the Group Insurance Scheme of the Life Insurance Corporation of India as already adopted by the said establishment, or the benefits to the employees under this Scheme are reduced in any manner, the exemption shall be liable to be cancelled.

10. Where, for any reason, the employer fails to pay the premium etc. within the due date, as fixed by the Life Insurance Corporation of India, and the policy is allowed to lapse, the exemption is liable to be cancelled.

11. In case of default, if any made by the employer in payment of premium the responsibility for payment of assurance benefits to the nominees or the legal heirs of deceased members who would have been covered under the said Scheme but for grant of this exemption, shall be that of the employer.

12. Upon the death of the member covered under the Scheme the employer in relation to the said establishment shall ensure prompt payment of the sum assured to the nominee/legal heirs entitled for it and in any case within 7 days of the receipt of the sum assured from the Life Insurance Corporation of India.

[No. S. 35014/305/83-PF III]

का० आ० 140.—मैसर्स सी० पी० कुकरेजा एण्ड एसोसिएट्स प्रा० लि०, के-13 होजबास इन्क्लेव, नई दिल्ली-16 (दिल्ली/3468) (जिसे इसमें इसके पश्चात् उक्त स्थापन कहा गया है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 17 की उपधारा (2क) के अधीन छूट दिए जाने के लिए आवेदन किया है ;

और केन्द्रीय सरकार का समाधान हो गया है कि उक्त स्थापन के कर्मचारी, किसी पृथक अभिधाय या प्रीमियम

का सन्दाय किए बिना ही, भारतीय जीवन बीमा निगम की सामूहिक बीमा स्कीम के अधीन जीवन बीमा के रूप में फायदे उठा रहे हैं और ऐसे कर्मचारियों के लिए ये फायदे उन फायदों से अधिक अनुकूल हैं जो कर्मचारी निक्षेप सहबद्ध बीमा स्कीम, 1976 (जिसे इसमें इसके पश्चात् उक्त स्कीम कहा गया है) के अधीन उन्हें अनुजेय ह ,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (2क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इससे उपावद्ध अनुसूची में विनिर्दिष्ट शर्तों के अधीन रहते हुए, उक्त स्थापन को तीन वर्ष की अवधि के लिए उक्त स्कीम के सभी उपबन्धों के प्रवर्तन से छूट देती है ।

अनुसूची

1. उक्त स्थापन के संबंध में नियोजक प्रादेशिक भविष्य निधि आयुक्त, दिल्ली को ऐसी विवरणियां भेजेगा और ऐसे लेखा रखेगा तथा निरीक्षण के लिए ऐसी सुविधाएं प्रदान करेगा जो केन्द्रीय सरकार, समय-समय पर निर्दिष्ट करें ।

2. नियोजक, ऐसे निरीक्षण प्रभागों का प्रत्येक मास की समाप्ति के 15 दिन के भीतर संचाय करेय करेगा जो केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (3क) के खण्ड (क) के अधीन समय-समय पर निर्दिष्ट करें ।

3. सामूहिक बीमा स्कीम के प्रगमन में, जिसके अन्तर्गत लेखाओं का रखा जाना, विवरणियों का प्रस्तुत किया जाना, बीमा प्रीमियम का संचाय, लेखाओं का अन्तरण, निरीक्षण प्रभागों का संचाय आदि भी है, होने वाले सभी व्ययों का वहन नियोजक द्वारा किया जाएगा ।

4. नियोजक, केन्द्रीय सरकार द्वारा अनुमोदित सामूहिक बीमा स्कीम के नियमों की एक प्रति, और जब कभी उनमें संशोधन किया जाए तब उस संशोधन की प्रति तथा कर्मचारियों की बहुसंख्या की भाषा में उरकी मुख्य बातों का अनुवाद, स्थापन के सूचना-पट्ट पर प्रदर्शित करेगा ।

5. यदि कोई ऐसा कर्मचारी, जो कर्मचारी भविष्य निधि का या उक्त अधिनियम के अधीन छूट प्राप्त किसी स्थापन की भविष्य निधि का पहले ही सदस्य है, उसके स्थापन में नियोजित किया जाता है तो, नियोजक, सामूहिक बीमा स्कीम के सदस्य के रूप में उसका नाम तुरन्त दर्ज करेगा और उस की वास्तव आवश्यक प्रीमियम भारतीय जीवन बीमा निगम को संचाय करेगा ।

6. यदि उक्त स्कीम के अधीन कर्मचारियों को उपलब्ध फायदे बढ़ाये जाते हैं तो, नियोजक सामूहिक बीमा स्कीम के अधीन कर्मचारियों को उपलब्ध फायदों में समुचित रूप से वृद्धि की जाने की व्यवस्था करेगा जिससे कि कर्मचारियों के लिए सामूहिक बीमा स्कीम के अधीन उपलब्ध फायदे उन फायदों से अधिक अनुकूल हों, जो उक्त स्कीम के अधीन अनुजेय हैं ।

7. सामूहिक बीमा स्कीम में किसी बात के होने हुए भी, यदि किसी कर्मचारी की मृत्यु पर इस स्कीम के अधीन सन्देश्य रकम उस रकम से कम है जो कर्मचारी को उस दश में संदेश्य होती, जब वह उक्त स्कीम के अधीन होता तो नियोजक कर्मचारी के विधिक वारिस नामनिर्देशन को प्रतिकर के रूप में दोनों रकमों के अन्तर के बराबर रकम का संदाय करेगा।

8. सामूहिक बीमा स्कीम के उपबन्धों में कोई भी संशोधन, प्रादेशिक श्रवण्य निधि आयुक्त, दिल्ली के पूर्व अनुमोदन के बिना नहीं किया जाएगा और जहाँ किसी संशोधन से कर्मचारियों के हित पर प्रतिकूल प्रभाव पड़ने की संभावना हो वहाँ, प्रादेशिक श्रवण्य निधि आयुक्त, अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना दृष्टिकोण स्पष्ट करने का युक्तियुक्त अवसर देगा।

9. यदि किसी कारणवश, स्थापन के कर्मचारी भारतीय जीवन बीमा निगम की उस सामूहिक बीमा स्कीम के, जिसे स्थापन पहले अपना चुका है अधीन नहीं रह जाते हैं, या इस स्कीम के अधीन कर्मचारियों का प्राप्त होने वाले फायदे किसी रीति से कम हो जाते हैं; तो यह रद्द की जा सकती है।

10. यदि किसी कारणवश, नियोजक उस नियत तारीख के भीतर, जो भारतीय जीवन बीमा निगम नियत करे, प्रीमियम का संदाय करने में असफल रहता है, और पालिसी को व्यपगत हो जाने दिया जाता है तो, छूट रद्द की जा सकती है।

11. नियोजक द्वारा प्रीमियम के संदाय में किए गए किसी व्यतिक्रम की दशा में, उन मृत सदस्यों के नामनिर्देशनितियों या विधिक वारिसों को जो यदि यह छूट न दी गई होती तो उक्त स्कीम के अन्तर्गत होते, बीमा फायदों के संदाय का उत्तरदायित्व नियोजक पर होगा।

12. उक्त स्थापन के संबंध में नियोजक, इस स्कीम के अधीन आने वाले किसी सदस्य को मृत्यु होने पर उसके हकदार नामनिर्देशनितियों/विधिक वारिसों को बीमाकृत रकम का संदाय तत्परता से और प्रत्येक दशा में भारतीय जीवन बीमा निगम से बीमाकृत रकम प्राप्त होने के सात दिन के भीतर सुनिश्चित करेगा।

[खंया एस-35014/304/83-पी०एफ० 2]

ए० के० भट्टराई, अवर सचिव

S.O. 140.—Whereas Messrs C. P. Kukreja & Associates Pvt. Limited, K-13, Hauz-Khas Enclave, New Delhi-16 (DL/3468), (hereinafter referred to as the said establishment) have applied for exemption under sub-section (2A) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act (19 of 1952) (hereinafter referred to as the said Act);

And whereas, the Central Government is satisfied that the employees of the said establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits under the Group Insurance Scheme of the Life Insurance Corporation of India in the nature of Life

Insurance which are more favourable to such employees than the benefits admissible under the Employees Deposit-Linked Insurance Scheme, 1976 (hereinafter referred to as the said Scheme);

Now, therefore, in exercise of the powers conferred by sub-section (2A) of section 17 of the said Act and subject to the conditions specified in the schedule annexed hereto, the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme for a period of three years.

SCHEDULE

1. The employer in relation to the said establishment shall submit such returns to the Regional Provident Fund Commissioner, Delhi, maintain such accounts and provide such facilities for inspection, as the Central Government may direct from time to time.

2. The employer shall pay such inspection charges as the Central Government may, from time to time, direct under clause (a) of sub-section (3A) of section 17 of the said Act, within 15 days from the close of every month.

3. All expenses involved in the administration of the Group Insurance Scheme, including maintenance of accounts, submission of returns, payment of insurance premia, transfer of accounts, payment of inspection charges etc. shall be borne by the employer.

4. The employer shall display on the Notice Board of the establishment, a copy of the rules of the Group Insurance Scheme as approved by the Central Government and, as and when amended, alongwith a translation of the salient features thereof, in the language of the majority of the employees.

5. Whereas an employee, who is already a member of the Employees' Provident or the Provident Fund of an establishment exempted under the said Act, is employed in his establishment, the employer shall immediately enrol him as a member of the Group Insurance Scheme and pay necessary premium in respect of him to the Life Insurance Corporation of India.

6. The employer shall arrange to enhance the benefits available to the employees under the Group Insurance Scheme appropriately, if the benefits available to the employees under the said Scheme are enhanced, so that the benefits available under the Group Insurance Scheme are more favourable to the employees than the benefits admissible under the said Scheme.

7. Notwithstanding anything contained in the Group Insurance Scheme, if on the death of an employee the amount payable under this scheme be less than the amount that would be payable had employee been covered under the said Scheme, the employer shall pay the difference to the legal heir/nominee of the employee as compensation.

8. No amendment of the provisions of the Group Insurance Scheme shall be made without the prior approval of the Regional Provident Fund Commissioner, Delhi and where any amendment is likely to affect adversely the interest of the employees, the Regional Provident Fund Commissioner shall before given his approval, give a reasonable opportunity to the employees to explain their point of view.

9. Where, for any reason, the employees of the said establishment do not remain covered under the Group Insurance Scheme of the Life Insurance Corporation of India as already adopted by the said establishment, or the benefits to the employees under this Scheme are reduced in any manner, the exemption shall be liable to be cancelled.

10. Where, for any reason, the employer fails to pay the premium etc. within the due date, as fixed by the Life Insurance Corporation of India, and the policy is allowed to lapse, the exemption is liable to be cancelled.

11. In case of default, if any made by the employer in payment of premium the responsibility for payment of assurance benefits to the nominees or the legal heirs of deceased member who would have been covered under the said Scheme but for want of this exemption, shall be that of the employer.

12. Upon the death of the member covered under the Scheme the employer in relation to the said establishment

shall ensure prompt payment of the sum assured to the nominee/legal heirs entitled for it and in any case, within 7 days of the receipt of the sum assured from the Life Insurance Corporation of India.

[No. S. 35014(304)/83-PF-II]

A. K. BHATTARAI, Under Secy.

New Delhi, the 28th December, 1983

S.O. 141.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Madras, in the industrial dispute between the employers in relation to the management of Central Ground Water Board Madras and their workmen, which was received by the Central Government on the 17th December, 1983.

BEFORE THIRU T. ARULRAJ, B.A., B.L., PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, TAMIL NADU,

MADRAS

(Constituted by the Government of India)

Saturday, the 10th day of December, 1983

INDUSTRIAL DISPUTE NO. 5 OF 1983

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Central Ground Water

Board, Madras.)

BETWEEN

Shri Chelliah Chandi Kumar, No. 5, Old Teddy Shop Street, Gowripet, Avadi, Madras-600054.

AND

The Executive Engineer, Central Ground Water Board Division IV No. 96, Luz Church Road, Mylapore, Madras-600004.

REFERENCE :

Order No. L-42012(19)/82-DII(B), dated 11th January, 1983 of the Ministry of Labour & Rehabilitation, Department of Labour, Government of India

This dispute coming on for oral hearing on Tuesday, the 6th day of December, 1983 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru T. Fenn Walter, Advocate for the workman and of Thiru Sivasankar for Thiru S. Seshadri, Central Government Pleader appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following

AWARD

This dispute arising out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in Order No. L-42012 (19)/82 D.II (B), dated 11th day of January, 1983 is raised by the Petitioner Sri Chelliah Chandi Kumar on account of termination of his services without providing him an alternative suitable job of a less laborious nature.

(2) According to the allegations in the claim statement, the Petitioner Sri Chelliah Chandi Kumar was originally serving in the army as a driver and in the Ex-serviceman vacancy, he was appointed as Cleaner on 14-3-1977 in the office of the Executive Engineer, Central Ground Water Board, Division IV, Mylapore, Madras-4. In the course of his duty, while driving government vehicle, he met with an accident on 21-10-1978 and he has become 50 per cent handicapped. He claimed compensation under the Workmen's Compensation Act and was paid a sum of Rs. 9798.25 ps. The Medical Certificate issued in favour of the Petitioner certified that the Petitioner is fit for further service. However, he has been abruptly terminated from service with effect from 6-4-1981. He was then drawing a salary of Rs. 700/- per mensem. This termination by the

Chief Engineer is an unjust, improper and illegal. On the strength of the medical certificate, the Management should have provided with alternative employment, which is less hazardous and should not have terminated his services. No opportunity was afforded to this Petitioner to explain his case before terminating him from service. His termination will amount to retrenchment in violation of Section 25(F) of the Industrial Disputes Act, 1947. He has not been issued with any notice containing the reasons for retrenchment and no retrenchment compensation has been offered till date and hence his retrenchment from service is contrary to Section 25(F) of the Industrial Disputes Act and therefore it is illegal and void ab initio. Instead of viewing the entire issue from a humanitarian angle and instead of providing alternative employment, at least on compassionate ground, he had been terminated from service. Under these circumstances, the order of termination should be set aside and he should be provided in the service and reinstated with back wages in the same job or alternative job.

(3) The Respondent-Management in its counter statement on the other hand states that the Petitioner was appointed as temporary Cleaner on 14-3-1977 in the pay scale of Rs. 200-3-206-4-234-EB-4-250 and was drawing a sum of Rs. 447/- per month inclusive of all allowances, that is Pay Rs. 214/-, D.A. Rs. 77/-, A.D.A. Rs. 106/-, H.R.A. Rs. 32.10 C.C.A. Rs. 13.90 and W.A. Rs. 4 per month at the time of termination of his service and not Rs. 700/- as claimed by him. He was a qualified driver with a licence for driving heavy vehicles. While driving a vehicle on duty near Muppavaram Village in Prakasham District in Andhra Pradesh he met with an accident on 21-10-1978 as alleged in the claim statement. Certified fit by the authorities of the Government General Hospital, he resumed duty on 1-1-1980 when he was given despatch work. During the period from the date of accident to 1-1-1980, he was paid half monthly payments in accordance with the relevant provisions of the Workman's Compensation Act, 1923 and on the application of the Petitioner to the Additional Commissioner for Workmen's Compensation Madras, on transfer of the application from the concerned authorities at Guntur, compensation amounting to Rs. 13,440/- was awarded on loss of 50 per cent of his earning capacity as determined by the Medical Board, Government General Hospital, Madras and deducting a sum of Rs. 3,641.75 ps. paid already, the balance of Rs. 9,798.25 ps. was paid to him. The Medical Board constituted by the Government General Hospital expressed the opinion that Sri Chandi Kumar was completely and permanently incapacitated for further service of any kind with the Department in which he belongs in consequence of the damage suffered and expressed the view that he was fit for further service of a less laborious character and that he could be engaged for sedentary work. As no suitable post answering to this description was available with the Respondent for continuing in employment of the Petitioner, his services were terminated with a month's notice by order dated 2-4-1981 and was relieved on 6-4-1981. It is therefore denied that his services were abruptly terminated any reason. It is also incorrect to state that this was not a case of retrenchment and therefore there is no violation of Section 25(F) of the Industrial Disputes Act, 1947 as contended. As it is a case on medical grounds, there is no need to offer Petitioner any opportunity to explain why his services should not be terminated. For all or any of these reasons, therefore the Petitioner will not be entitled to any relief in this dispute.

(4) The points for determination in the case will be :

(1) Whether the termination of services of the Petitioner Sri Chelliah Chandi Kumar without providing an alternative job is justified; and

(2) to what relief are the parties entitled.

(5) POINT NO. 1 : W.W.1, the Petitioner Sri Chelliah Chandi Kumar has stated that he joined service in the Respondent's management on 14-3-1977 as Cleaner. He met with an accident on 21-10-1978 and for 50 per cent disability he was paid compensation. Under Ex. W-1 the Board has recommended alternative job after the accident. In fact under Ex. W-2, the Government has issued orders for appointment of disabled persons. In his present condition

of disability, instead of job that he was doing before the accident, he could be employed alternatively as Record Keeper, Duties, Peon, etc., which are available in the Respondent's Management. Instead of providing him with any of these jobs which are available more than 10 in Madras itself or anywhere else in India, his services were terminated under Ex. W-3, dated 2-4-1981. He admits as stated by M.W.1 Sri P.P. Munjal, Assistant Executive Engineer in the Respondent Management that he was getting a salary of Rs. 447 inclusive of allowances at the time of termination of the services of the Petitioner. M.W.1 does not dispute all the facts stated by W.W.1, but he only states that W.W. 1 can do only light work, not involving long walking and standing, and as the Management is not in a position to give him any alternative job he was removed from service under Ex. W-3. He no doubt admits that the jobs, viz., Peon and Helper carrying the same scale of pay as W.W. 1 was drawing. But he will only deny there are vacancies all over India to provide W.W. 1 with this alternative job. Of course, he admits that he did not make any efforts to ascertain the same and he only referred the matter to the Head Quarters, Delhi. In short, M.W. 1 concedes that alternative jobs as Peon and Helper are not existing in the Respondent-Management.

(6) I do not think this order of termination amounts to retrenchment as contended by Sri Fenn Walter and this termination is not bad as retrenchment for want of a month's notice. On the other hand, under Ex. W-3, order of termination dated 2-4-1981, a sum equivalent to the amount of pay and allowances for a period of one month in lieu of a month's notice is offered. Therefore even if it is retrenchment, it will not become bad for want of a month's notice. On the other hand, I think that the order of termination under Ex. W-3 cannot be sustained for other reasons. It is stated therein that in pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (temporary service) Rules, 1965, services of Sri C. Chandhi Kumar Cleaner are hereby terminated forthwith. No doubt, it is alleged in the claim statement that he was confirmed as a quasi-permanent employee on 13-3-1979. No order is produced to show the same. It is unlikely that he was confirmed as quasi-permanent employee while he was in the hospital till 1-1-1980 after the accident on 21-10-1978. However, he has worked from 14-3-1977 to 21-10-1978 when the accident took place for over 240 days continuously. His services cannot be terminated or retrenched except for valid reasons. No reason is assigned in Ex. W-3 for his termination. If he has been terminated as temporary hand unless there is want of vacancy I do not think this retrenchment or termination will be valid.

(7) Even on medical grounds if true, I do not think this order of termination could be sustained. Whether compensation was paid or not for the disability suffered by W.W.1, it is the duty of the employer to see if he has suffered from any disability in the course of his duty under the Management to provide him with alternative job, unless he could not be fixed up even in the alternative jobs because of his total physical disability. The disability that he has suffered as is seen from Ex. M-1, Medical Certificate of the Orthopaedic Surgeon, Government General Hospital, Madras is that he is not fit for work involving prolonged standing and walking due to injury to pelvis with fracture pubic rami both superior and inferior left side and superior right side and traumatic arthritis of left hip. However, he is found to be fit for sedentary type of work. In fact, under Ex. W-1, Medical Certificate issued by Government General Hospital, Madras, his disability is described as 50 per cent of earning capacity though he was found to be fit for further service of a less laborious character. Both certification do not therefore completely disqualify him from undertaking any work. On the other hand he is found fit for a work of less laborious nature as that of a peon which does not involve long standing and long walking, if not helper. Compensation for 50 per cent loss of earning capacity under the Workmen's Compensation Act is only for an injury that he has suffered and not for loss of that job that he may incur on this account. Besides compensation therefore the Respondent-Management ought

to have given him a job that he is fitted in alternatively for the rest of his life or till the age of superannuation, as the disability is suffered by him while in discharge of his duty under the Respondent. As contended by Sri Fenn Walter, learned counsel for the Petitioner, whether there is vacancy or no vacancy, the last man should be retrenched for want of vacancy in the post of Peon or any other alternative post carrying the same scale of pay and W.W. 1 should have been absorbed in his place. Management having failed to do so, the Petitioner will be entitled to reinstatement in service in any one of these alternative jobs, particularly the post of peon carrying the same scale of pay as admitted by M.W. 1 with back wages.

(8) Of course, under Ex. W-2, Government has issued orders that disabled persons should be appointed in various jobs according to the defects minor or major, they are suffering from. But that order may not have any relevance to the facts in this case, because I am not dealing with a new applicant suffering from such defects for a job in the Respondent's Management. In that case, the course open to him, is not to come to this court, but to appeal to higher authorities for appointment in any of the jobs that will suit his faculties, under disability. This point I find accordingly in favour of the Petitioner.

(9) In the result, an award is passed ordering reinstatement of W.W.1 Sri Chelliah Chandhi Kumar as Peon or any other equivalent post available in the Respondent-Management if necessary retrenching the junior most person in that category with back wages at the rate of Rs. 477 per month from the date of termination till the date of reinstatement. There will be no order as to costs.

Dated, the 10th day of December, 1983.

T. ARULRAJ,
Industrial Tribunal

Witnesses Examined

For Workman :

W.W.1—Thiru C. Chandhi Kumar.

For Management :

M.W.1—Thiru P. P. Munjal.

Exhibits Marked

For Workman :

W-1/20-12-80—Medical certificate issued to W.W.1 (Xerox copy).

W-2/16-3-81—Letter No. 24-6-81—CHW, Government of India Ministry of Irrigation regarding blind and physically handicapped persons—employment in Government Offices. (typed copy).

W-3/2-4-81—Termination order issued to W.W.1 by the Chief Engineer (C.C) of the Management.

For Management :

M-1/26-9-80—Certificate issued to W.W.1 by Dr. T. K. Shanmugasundaram, Orthopaedic Surgeon, Government General Hospital, Madras-3 with Medical report dated 14-7-80 (Xerox copies).

T. ARULRAJ,
Industrial Tribunal
[No. L-42012(19) 82-D. II(B)]

S.O. 142—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, No. 1, Dhanbad, in the industrial dispute between the employers in relation to the management of Delhi Rohas Light Railway Co. Ltd., Dalmianagar (Rohas) and their workmen, which was received by the Central Government on the 23rd December, 1983.

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of a reference under section (10)(1)(d)
of the Industrial Disputes Act, 1947.

Reference No. 70 of 1982

PARTIES :

Employers in relation to the management of
Dehri Rohtas Light Railway Co. Ltd.,
Dalmianagar (Rohtas)

AND

Their Workmen.

PRESENT :

Mr. Justice Manoranjan Prasad (Retd.)—Pre-
siding Officer.

APPEARANCES :

For the Employers—Sri S. S. Mukherjee, Advoca-
cate.

For the Workman—Sri R. S. Murty, Advocate.

STATE : Bihar. **INDUSTRY :** Railway.

Dated, the 19th December, 1983.

AWARD

By Order No.L-41012/282.D.III.B, dated, the
20th September, 1982, the Central Government in
the Ministry of Labour has, in exercise of the powers
conferred by clause (d) of sub-section (1) of section
10 of the Industrial Disputes Act, 1947, referred the
following dispute to this Tribunal for adjudication :

“Whether the action of the management of
Dehri Rohtas Light Railway Co. Ltd.,
Dalmianagar (Rohtas) in denying the job
of Record Keeper to Shri Sheo Shankar
Singh, Peon is justified? If not, to what re-
lief the workman is entitled?”

2. The case of the concerned workman, Sheo
Shankar Singh, is that he was appointed as a peon
with effect from 1-12-1965 in Dehri Rohtas Light
Railway Co. Ltd., Dalmianagar Rohtas, (hereinafter
referred to as the company). On account of his effi-
ciency and eligibility he was entrusted to handle the
work of old record room in 1977 after the promo-
tion of Sri A. B. Asthana, the then record keeper,
to the post of security assistant. Thereafter he claim-
ed that he should be given the designation and
grade of record keeper as he was performing the
duties of record keeper since the date of promotion
of Sri A. B. Asthana. Thereupon he was assured by
the management that his case would be considered if
he passed the matriculation examination and he was
granted personal allowance of Rs. 15/- per month.
He passed matriculation examination in the year 1979
and renewed his claim to get the post and grade of
record keeper. There was a settlement dated 27-4-70
between the management and their workmen repre-
sented by Dehri Rohtas Light Railway Employees
Union wherein it had been provided that the vacancy
in Class III cadre would be filled in from Class IV
employees who fulfilled the minimum qualification.
He being peon is class IV employee and the post of
record keeper is a Class III cadre and he being a
matriculate possessed the minimum qualification for

holding the post of record keeper. He made written
representations to the management to grant him de-
signation and grade of record keeper vide his peti-
tions dated 12-7-79, 20-8-79, 5-12-79 and 28-12-79
but all in vain. The management, however, enhanced
the amount of his personal allowance from Rs. 15/-
per month to Rs. 25/- per month with effect from
1-1-80. Thereafter his cause was taken up by the
sponsoring union, the Rohtas Karmachari Sangh vide
letter No.DRL/1/80 dated 28-1-80 but the concilia-
tion efforts made by the conciliation machinery of
the Government of India failed because of the ada-
mant attitude adopted by the management. His de-
mand, therefore, is that the management may be
directed to give him the post, designation and grade
of record keeper atleast with effect from December
1977.

3. The case of the management, on the other
hand, is that the concerned workman was appointed
as casual peon with effect from 1-12-65 and he was
made temporary peon with effect from 1-11-69 and
was confirmed in that post with effect from 1-12-72.
There is no post designated as record keeper in
the company which is higher in rank than the post
of a record clerk. There is, however, a post of re-
cord Clerk. The duties of a record clerk is to main-
tain current and old records and file current corres-
pondences for reference. At the end of the year all
the connective files received by the record clerk are
bound separately and are sent to the record room for
keeping the same with connective records of the pre-
vious year. Old records are needed sometimes for
reference. Once Sri A. B. Asthana was working as
record-cum-security clerk and was performing the
above duties of record clerk. He continued to perform
the duties of record clerk even on promotion as secu-
rity assistant in November, 1976 till he left the ser-
vices whereafter this work is being done by one Sri
K. D. Mittal, Despatch Clerk who had been work-
ing in the leave vacancy of Sri A. B. Asthana as re-
cord clerk during the absence of Sri A. B. Asthana.
The concerned workman as a peon was depositing
the bound current records at end of the year in the
the record room along with other relevant old re-
cords. He also at times used to bring old records
from the record room which became necessary for
some references required by record clerk. The peons
including the concerned workman, merely carry files
from one place to another as per instruction and
directions of the record clerk|despatch clerk|security
assistant. The concerned workman had not perform-
ed any clerical work at any time and he as a peon
was sanctioned as personal allowance of Rs. 15/-
per month in the year 1978 which was increased to
Rs. 25/- per month with effect from 1-1-80 for dust-
ing and cleaning of the record room, depositing of
the current record in the old record room, mainte-
nance and upkeep of old record room and for bring-
ing records from record room as and when required
by the record clerk. The management never assured
the concerned workman that his case or the post of
record clerk will be considered after he passed the
matriculation examination. Therefore, the demand
of the concerned workman for the job of record
keeper is not at all justified and he is not entitled
to any relief.

4. Two witnesses, namely, Sri K. D. Mittal (MW-1) and Sri Debender Prasad Sinha (MW-2) have been examined on behalf of the management. The concerned workman Sri Sheo Shankar Singh (WW-1) is the lone witness examined on his behalf. Some documents have also been exhibited on either side.

5. Sri K. D. Mittal (MW-1) has deposed that he is working in the company since 7-4-1955 as despatch clerk at Dalmianagar and when he had joined there in April 1955 there was no post of record keeper or record clerk and a post of record clerk was created for the first time in the year 1965 and there is no post of record keeper even now. He has further deposed that when he had joined as despatch clerk in April 1955 there was already another despatch clerk working there whose name was Sri S. P. Singh who continued working as Senior Despatch Clerk and he started working under him as Junior Despatch Clerk and at that time Sri S. P. Singh was also doing the work of record clerk and Sri S. P. Singh continued working as record clerk upto 1965 in addition to his duty as Senior Despatch Clerk and in 1965 Sri S. P. Singh was transferred to Audit Section and in his place Sri A. B. Asthana was transferred from Audit Section to work as record clerk only and Sri A. B. Asthana continued to work as record clerk from 1965 to 1973 when his designation was changed to record clerk-cum-security clerk and Sri A. B. Asthana worked as record clerk-cum-security clerk from 1973 to 1976 when he was promoted as security assistant but was also ordered to do the work record clerk and Sri A. B. Asthana looked after the work of record clerk in addition to his duty as security assistant till July 1982 when he resigned and left the services of the company. It is next his evidence that whenever he used to work as record clerk in addition to his own duties as despatch clerk in the absence of Sri A. B. Asthana he used to get some overtime allowance but subsequently when he applied for being given a fixed allowance for working as record clerk during the absence of Sri A. B. Asthana, a fixed allowance of Rs. 30 per month was fixed by the management to be given to him and after Sri A. B. Asthana resigned in July, 1982 he started doing the work of record clerk regularly in addition to his own duties as despatch clerk and went on applying for being given officiating allowance for working as record clerk and thereafter the management granted him Rs. 60 per month as officiating allowance since July, 1982 which he is still getting. He has further deposed that the duties of the record clerk is to file office copies of the letters issued in proper files and also to maintain the records and put up the same whenever required by the officers concerned for reference. According to him, the concerned workman Sheo Shankar Singh works as a peon in the office of the company at Dalmianagar and he does not work as record clerk and he only cleans the racks of the record room and keeps the record there serially and at his direction he also brings the required old file from the record room to him which he thereafter puts up to the officer concerned and key of the record room also remains with him and before him the key used to remain with Sri A. B. Asthana. In his cross-examination he has stated that the record room of the company at Dalmianagar is in the basement and there are racks in the record room and records are kept on the racks and all the old records are kept in the said record room except the

personal files which remain in the Personnel Office and his office is in the 3rd floor of the building where current records are kept and the concerned workman also works on the 3rd floor and whenever any officer requires any record from record room he issues a requisition slip for the same to him and he gives it to the concerned workman who goes to the record room and brings out the record and gives it to him and thereafter he asks the concerned workman to go and give the record to the person who had requisitioned it and thereafter the concerned workman goes and gives the record to that person and after the record is returned to him by the person requisitioning it he simply asks the concerned workman to go and keep the record in the record room at its proper place and the concerned workman does so accordingly. He has further stated that he does not know if a register is maintained inside the record room called issue register in which the name of the person requisitioning the record, the date of requisition and the details of the record are entered nor does he make any entry in any issue register of the record room nor does he know since 1978 the concerned workman has been writing and maintaining the issue register in the record room and it remains in his custody. He has further deposed that he maintains the current records which remain in his office on the 3rd floor and those current records are not maintained by the concerned workman. According to him, post of record clerk is vacant at present and the concerned workman gets Rs. 25 per month as allowance in addition to his pay as a peon for keeping the racks of the record room clean and for bringing records from there and for keeping them there under his direction.

6. Sri Debender Prasad Sinha (MW-2) has deposed that he joined the company on 1-11-1949 as a guard and in June 1950 he was transferred as a store clerk and in 1960 he was promoted as Senior Store Clerk and in 1973 he was promoted as Store Keeper on which post he is still continuing. He has next deposed that in the company there was never a post designated as record keeper and the despatch clerk also formerly used to work as record clerk but in 1965 or so a separate post of record clerk was created and Sri A. B. Asthana who was formerly Audit Clerk was posted as record clerk-cum-security clerk who was subsequently promoted as security assistant but he continued to look after the work of record clerk also and the post of security clerk was abolished but in 1982 Sri A. B. Asthana resigned and since then there is no security assistant but the work of record clerk was assigned to despatch clerk, Sri K. D. Mittal, in addition to his own duty. He has further deposed that the concerned workman is a peon in the general office of the company at Dalmianagar and he never worked as record keeper or record clerk, the post of record keeper being higher than that of the record clerk, though there is no post of record keeper in the company. In his cross-examination it has been suggested on behalf of the concerned workman that the post of record keeper and the record clerk is the same which he has denied. He has also denied the suggestion made on behalf of the concerned workman that after Sri A. B. Asthana became security assistant he never worked as record clerk.

7. The concerned workman Sheo Shankar Singh (WW-1) has deposed that he joined the company in December 1965 as a peon and in 1965 Sri S. P. Singh

was the despatch clerk who also used to work as record clerk and between 1965 and 1968 one Sri Indrajit Prasad Sinha used to work as record clerk and between 1968 and 1973 Sri A. B. Asthana worked as record clerk but in 1973 he became record clerk-cum-security clerk and he continued as such till March or April 1976 when he was promoted as security assistant and between 1968 and April 1976 the key of the record room used to remain with Sri A. B. Asthana but after Sri A. B. Asthana became Security Assistant in the year 1976 he left doing the work of record clerk though the key of the record room still remained with Sri A. B. Asthana and he started looking after the work of the record room after taking the key of the record room from Sri A. B. Asthana from time to time and on 24/31-12-77 the key of the record room was finally given to him by Sri A. B. Asthana under the orders of Sri S. K. Kapur, Chief Executive, whereafter he started receiving records of different departments along with a list to be kept in the record room and thereafter he started looking after all the work of the record room including the work regarding current records. He has further deposed that thereafter he had represented to the management that since he was managing and looking after the work of record room he should be promoted as record keeper or record clerk on which the management started paying him Rs. 15/- per month from October, 1978 and told him that he should work in the record room for sometime more and should also pass the matriculation examination whereafter the management would promote him and thereafter he passed the matriculation examination in the year 1979 and also continued to work in the record room and again submitted a representation to the management for promoting him as record keeper or the record clerk but the management, instead of promoting him, gave him an extra allowance of Rs. 10/- more in 1980 and since then he is getting Rs. 25/- per month as allowance for working in the record room but he has not been promoted as record keeper or record clerk and he continues to be a peon with additional allowance of Rs. 25/- per month for working in the record room. It is next his evidence that he had again represented to the management for making him record clerk or record keeper after he was thus paid Rs. 25 per month as allowance for working in the record room but since the management did not accede to his request he referred the matter through the Union for conciliation which ultimately failed leading to the present reference. His further evidence is that there is no separate post of record keeper and record clerk and there is only one post of record keeper which is also the post of record clerk which is a Class III post whereas the post of a peon is Class IV post. According to him, he used to arrange the records sent by different sections to the record room situated in the basement and number the records and also used to issue records from the record room on requisition slips and the records issued from the record room used to be entered by him in the issue register and whenever the records issued from the record room used to be returned back he used to note the same in the issue register before keeping them in the record room and he also used to get the damaged records bound by calling the book binder and in this way the entire responsibility of the record room was being discharged by him and in regard to the current records kept in five almirahs on the 3rd floor it was

also his duty to file the office copies of the letters issued from the office in the relevant current files and also to give the relevant current files to the officers concerned for replying to the letters received from outside and when Sri A. B. Asthana was record clerk he also used to do those very jobs which subsequently he has been doing. It is further his evidence that on 5-7-83 he handed over the key of the record room to the General Manager under his orders but even thereafter he is working as record clerk and doing all the jobs of the record room but every day he has to take the key of the record room from the despatch clerk, Sri K.D. Mittal, and every evening he hands over the key to him as the General Manager had given the key of the record room to the said Shri K.D. Mittal though Sri K. D. Mittal had never any concern with the old records and he never worked in the record room. He has next alleged that the record issue register was taken from him by the Personnel Officer Shri B. N. Pandey in March or April 1983 for filing it in court but he did not file the said register in this Tribunal. His demand is that he should be given the post of record clerk or record keeper from December 1977 since when he has been working as record clerk after Sri A. B. Asthana ceased to work as record clerk on his promotion from the post of record clerk-cum-security clerk to the post of Security Assistant.

8. From the pleadings of the parties and the oral evidence adduced by them, as discussed above, it appears that on some points there is no difference between them while on some points they basically differ. For example, it is their admitted case that the concerned workman was appointed as a peon in the company with effect from 1-12-1965. It is further the admitted position that Sri S. P. Singh, despatch clerk also worked as a record keeper in addition to his own duties till 1965. Thereafter there is a difference between the parties as to who worked as record clerk after 1965 as according to the concerned workman one Sri Indrajit Prasad Sinha worked as record clerk between 1965 and 1968 and Sri A. B. Asthana took charge of the record clerk from 1968 whereas according to the management Sri A. B. Asthana started doing the work of record clerk right from 1965. This difference is, however, not of much importance as we are not concerned with that happened between 1965 and 1968 and we are concerned with much later period in respect of which it is again the admitted position that Sri A. B. Asthana continued to work as record clerk till 1973 when his designation was changed to that of record clerk-cum-security clerk in which capacity he continued to work from 1973 to 1976 when he was promoted as security assistant who subsequently resigned in July, 1982 and left the services of the company. The real difference between the parties is on the point as to what happened in regard to the work of record clerk after Sri A. B. Asthana, record clerk-cum-security clerk, was promoted as security assistant in the year 1976 till he resigned in July 1982 and what arrangements were made to carry on the work of record clerk after he resigned. According to the concerned workman after the promotion of Sri A. B. Asthana, record clerk-cum-security clerk, to the post of security assistant in the year 1976, Sri A. B. Asthana ceased to work as record clerk and the burden of doing that work fell squarely on the shoulder of the concerned workman

who carried on the work of record clerk between 1976 and December 1977 after taking the key of the record room from time to time from Sri A. B. Asthana with whom the key of the record room used to remain even after he was promoted as security assistant but on 24/31-12-77 the key of the record room was finally given to him by Sri A. B. Asthana under the orders of Sri S. K. Kapur, Chief Executive Officer after which he started looking after all the work of the record room and the entire responsibility of the record room was being discharged by him. But according to the management even after Sri A. B. Asthana, record clerk-cum-security clerk, was promoted as security assistant in the year 1976 he was ordered to do the work of the record clerk also which he continued to do till July 1982 when he resigned whereafter the work of the record clerk is being managed by Sri K. D. Mittal, despatch clerk, in addition to his own duties. According to the management, Sri K. D. Mittal, despatch clerk, also used to do the work of record clerk even during the time when Sri A. B. Asthana was security assistant during his absence for which Sri Mittal was getting some overtime allowance which was subsequently changed into a fixed allowance of Rs. 30 per month but after Sri A. B. Asthana resigned in July 1982 the said fixed allowance was raised to Rs. 60/- per month which Sri K. D. Mittal is still getting and the concerned workman Sheo Shankar Singh who is a peon was also previously sanctioned an allowance of Rs. 15/- per month in the year 1978 which was subsequently increased to Rs. 25/- per month with effect from 1-1-1980 for maintenance and up keep of the old record room and for bringing records from the record room whenever required by the officers and the staff and in this way the work of the record room is being carried on by giving an allowance of Rs. 60/- per month to the despatch clerk Sri K. D. Mittal (MW-1) for being responsible for all record work and Rs. 25/- per month to the concerned workman for doing the aforesaid odd jobs of the record room, and the post of record clerk is still being kept vacant and the management has no proposal to fill up that post by appointing a separate record clerk.

9. In the light of what has been stated above, I shall next refer to the documents which the parties have filed and got exhibited in this case.

10. Ext. M-5 is an office order dated 20-6-66 under which it was ordered that Dasrath and the concerned workman Sheo Shankar Singh, peons, will not leave the office for any sort of miscellaneous work and will either attend to officers concerned or will attend the office in the matter of exchange of records and keeping them properly and shall pay special attention for keeping the records properly and find it out when needed and supply to the clerks concerned. Ext. M-219 is a letter dated 12-9-1973 of the Secretary of the company addressed to Sri A. B. Asthana by which Sri A. B. Asthana was given an increment in his pay and his designation was changed from record clerk to record-cum-security clerk with effect from 1-4-1973. Ext. M-228 is a letter dated 4-11-76 of the Secretary of the company addressed to Sri A. B. Asthana, record-cum-security clerk, appointing him as security assistant with a higher scale of pay with effect from 1-4-76 with a direction that he will also maintain office and other records as hitherto. Ext.

W-1 is an order dated 24/31-12-77 of the Security of the company addressed to the officers of the company requesting them to depute one of their staff for getting the old records re-arranged in the old record room and for getting a list of records (sectionwise) prepared to be handed over to the record section and further laying down that whenever records are required from old record room the same will be issued on proper requisition and informing them that the key of old record room shall be available with record section and Sheo Shankar Singh. A copy of this order was also forwarded to the concerned workman Sheo Shankar Singh with a direction that he will assist in keeping the old record room properly. Ext. M-2 is an office order dated 10-4-78 of the Secretary of the company laying down the duties and allocation of works of the peons and directing that Dasrath and the concerned workman Sheo Shankar Singh, peons will not leave the office during office hours for any sort of any miscellaneous work and they shall pay special attention for keeping the records properly and find it out when needed and supply to the officers/staff concerned and the concerned workman Sheo Shankar Singh shall specially be responsible for keeping and supplying old records and the cleaning work of the office will be done by Dasrath and the concerned workman Sheo Shankar Singh and three other peons named in the order by rotation daily.

11. It was after the aforesaid office order dated 10-4-78 (Ext. M-2) that the concerned workman Sheo Shankar Singh for the first time made a representation dated 8-8-78 (Ext. M-220) to the Secretary of the company in which he stated that he had been performing the work concerning old records since 31st December, 1977 satisfactorily and prayed for granting him suitable benefit. Thereupon the Chief Executive of the company by his Office Order dated 14-10-78 (Ext. M-221) granted a personal allowance of Rs. 15/- per month to the concerned workman with effect from 1-10-78 for maintenance and up keep of old record room and for being responsible for presenting records from record room to the officers and staff concerned as and when required by them.

12. Then there is another representation dated 8-3-79 (Ext. M-229) of Sri K. D. Mittal (MW-1), despatch clerk, addressed to the Chief Executive stating that he had been doing the work of record in absence of Sri A. B. Asthana for which he was getting two hours overtime and praying that some reasonable allowance for the same be fixed instead of overtime. On the said representation there is an order dated 12-3-79 of Sri S. K. Kapur, Chief Executive, allowing Sri K. D. Mittal Rs. 30/- per month as allowance for looking after record work with effect from 1-2-79.

13. Thereafter there is a representation dated 20-3-79 (Ext. M-222) of the concerned workman Sheo Shankar Singh addressed to the Chief Executive stating that he had been looking after the job concerning old records viz, maintenance, up keep and issue of the same to the officials on requisition since December, 1977 for which he was granted a personnel allowance of Rs. 15/- per month with effect from 1-10-78 which was quite insufficient and praying that the said allowance be increased to Rs. 50/- per month after

evaluating his services in this regard. On 10-7-1979 the concerned workman passed his matriculation examination (vide matriculation certificate dated 10-7-1974 Ext. W-3). Thereupon, by Office Order dated 26-3-80 (Ext. M-223) of the Chief Executive, the personal allowance of the concerned workman was increased to Rs. 25/- per month with effect from 1-1-80 for maintenance and up keep of old record room and for being responsible for presenting records from record room to officers and staff concerned, as and when required by them and this order was also preceded by another Office Order dated 10-12-79 (Ext. M-3) in which it had been ordered that the concerned workman as usual will be also responsible for keeping and supplying of records/old records.

14. Ext. M-1 is an Office Order dated 5-8-80 of the Chief Executive directing that the old records i.e. books and pay sheets of the Audit, Accounts and Establishment section prior to financial year 1978-79 may be shifted to the old record room with a list of books and paysheets at the earliest. Another copy of this very Office Order Ext. W-5 and a copy of this order was also forwarded to the concerned workman Sheo Shankar Singh.

15. Exts. M-6 to M-167 are 162 original requisition slips issued by different staff for supply of records from record room between 1978 and 1983 which, however, do not bear either any endorsement or signature of any record clerk or of the concerned workman Sheo Shankar Singh. Exts. M-168 to M-217 are payment vouchers and bills in respect of binding work done in the record room by the book binder on some of which there are signatures of the concerned workman Sheo Shankar Singh as office peon. Exts. M-225, M-226 and M-227 are photostat copies of attendance registers for May 1976 and February 1983 in which the concerned workman Sheo Shankar Singh has been shown as peon.

16. Ext. M-224 is a letter dated 30-5-81 written by the General Manager of the company to the Asst. Labour Commissioner (C), Patna during the pendency of the conciliation proceeding stating that the concerned workman Sheo Shankar Singh was working as a peon and was not performing any clerical work and the management had no proposal to appoint a record keeper.

17. Ext. W-10 is original and Ext. W-2 is a photostat copy of a receipt dated 4-3-83 given by Sri B. N. Pandey, Assistant Personnel Officer, to the concerned workman Sheo Shankar Singh regarding receipt of 162 requisition slips and issue registers of the record room maintained by Sheo Shankar Singh from 1978 till date out of which the issue registers have not been filed by the management in this case.

18. Ext. W-13 is a letter dated 5-7-83 addressed by the concerned workman to the General Manager seeking instruction as to whom he should hand over the key of the record room which was in his possession as he had been verbally instructed by the General Manager to return back the key. Ext. W-14 is another letter dated 5-7-83 addressed by the concerned workman to the General Manager stating that as per verbal instruction of the General Manager he had sought

his orders as to whom he should hand over charge of the key of the record room but instead of giving any such order the General Manager had term out his application in his presence with the result that he was left with no other alternative but to hand over the key of the record room to the General Manager which he was doing and that he should not be held responsible for anything short/missing in the record room found in future. Ext. W-11 is a letter dated 9-7-83 addressed by the concerned workman to the General Manager reiterating what he had said in his previous two letters dated 5-7-83 (Exts. W-13 and W-14) and further complaining that he was being unnecessarily harassed because of the dispute raised by him regarding his promotion which was pending in this Tribunal and praying that the General Manager may desist from such objectionable and illegal action. Ext. W-8 is a letter dated 12/16-7-83 of the General Manager addressed to the concerned workman in reply to his letter dated 9-7-83 (Ext. W-11) expressing surprise at the workman's said letter and denying the allegations contained therein as baseless and made with some ulterior motive and further asserting that the concerned workman had no concern with the key of the record room and therefore the question of handing over the key or otherwise did not arise. Ext. W-12 is the reply dated 23-7-1983 of the concerned workman to the General Manager again reiterating what he had stated in his letter dated 9-7-1983 (Ext. W-11).

19. It is admitted case of the parties that Sri A. B. Asthana who was promoted from the post of record-cum-security clerk to the post of security assistant by order dated 4-11-76 (Ext. M-228) subsequently resigned from the post of security assistant and left the services of the company in July 1982. Ext. M-230 is an Office Order dated 26-7-83 of the General Manager stating that Sri K. D. Mittal, Despatch Clerk, in addition to his own duties will also be responsible for all record work and since Sri Mittal was already looking after the record work in full from the date Sri A. B. Asthana's resignation become operative, his allowance of Rs. 30 per month (for record work during the absence of Sri A. B. Asthana) is raised to Rs. 60 per month from the date he took complete charge of record work on cessation of employment of Sri A. B. Asthana.

20. Ext. M-4 is a memorandum of settlement dated 27-4-70 arrived at between the management of the company and its workmen represented by the Dehri Rohtas Light Rly. Employees Union, Dalmianagar. Admittedly the post of a peon is Class IV post and that of record clerk is Class III post. One of the terms of the settlement was that upto 15 per cent of the vacancies in Class III cadre would be filled from Class IV employees who fulfil the minimum qualification and pass requisite trade test and having a minimum of 5 years service and for consideration to Class III cadre in clerical post there would be relaxation in educational qualifications and the minimum qualification of matriculation certificate would be considered provided the incumbent has the aforesaid minimum service of 5 years. Ext. W-7 is another memorandum of settlement dated 29-4-83 arrived at between the management of the company and their workmen represented by the Dehri Rohtas Light Rly. Employees Union which revised and enhanced the pay scales for different grades

of employees of the company with effect from 1-4-1983. Under Appendix 'A' of the memorandum of settlement the scale of Rs. 70-85 was revised to Rs. 200-224 and the scale of Rs. 130-300 was revised to Rs. 260-466 besides D.A. It is the evidence of the concerned workman Sheo Shankar Singh (WW-1) that the pay scale of peons in the company before April 1983 was Rs. 70-85 besides D.A. which was after April 1983 revised to Rs. 200-224 besides D.A. and pay scale of record clerk before April 1983 was Rs. 130-300 besides D.A. which was after April 1983 revised to Rs. 260-466 besides D.A. Appendix 'A' to the aforesaid settlement further shows that in between these two scales there are as many as 12 other intermediate scales in respect of the intermediate categories of employees.

20. I would next like to refer to some decisions which have been cited in this case by Sri S. S. Mukherjee, Advocate, appearing for the management and Sri R. S. Murthy, Advocate, appearing on behalf of the concerned workman. Sri S. S. Mukherjee has referred to a Supreme Court decision in the case of Hindustan Lever Ltd. Vs. The Workmen (1973) 10 SCLJ. 321 and a decision of the Delhi High Court in the case of the Industrial Finance Corporation of India Vs. Delhi Administration (1974 Lab. I.C. 223) and Sri R. S. Murthy has referred to a decision of the Supreme Court in the case of Workmen of M/s. Williamson Magor & Co. Ltd. Vs. M/s. William Magor & Co. Ltd. and another [1982(1) LLJ. 33].

21. In the case of Hindustan Lever Ltd. Vs. The Workmen (supra) where a workman working in Grade T. 3 claimed to be placed in grade T. 4, a higher grade, it was held that it was really a case of promotion from a lower grade to a higher grade and in the absence of any finding of malafide or victimisation of the workman for trade union activities or any unfair labour practice, the Labour Court could not arrogate to itself the promotional function of the management and hence the Labour Court's order directing the management to place the workman in higher grade was bad and liable to be set aside. In the case of the Industrial Finance Corporation of India Vs. Delhi Administration (supra), it has been held that where the question whether promotion of an employee by the management of a Corporation was referred to an Industrial Tribunal, even after the finding that the persons superseded were so superseded on account of mala fides or victimisation, it is not the function of a Tribunal to consider the merits of various employees itself and then decide whom to promote and whom not to promote, and the proper course for it to take is to set aside the promotions and ask the management to consider the cases of superseded employees and decide for itself whom to promote, except of course the person whose promotion has been set aside by the Tribunal. In the case of Workmen of M/s. Williamson Magor & Co. Ltd. Vs. M/s. William Magor & Co. Ltd. and another, it has been held, on the facts and circumstances of that case, that the Industrial Tribunal, in view of its findings that the promotions of the junior clerks in preference to the senior clerks were not justified, should have declared that the promotions of junior clerks in preference to the senior clerks were illegal and unjustified, their promotions being the result of arbitrary action of the management which was nothing but unfair labour practice, and the promotion in question should have been cancelled.

and the Tribunal should have, also, in consultation with the management and the union, framed norms/rules of promotions and directed the management to give promotions/upgradations in accordance with those norms, rules.

22. In the setting of the aforesaid oral and documentary evidence and law on the point, the following matters emerge in the instant case. The concerned workman was appointed as a peon in the company with effect from 1-12-65 which is a Class IV post. By Office Order dated 20-6-66 (Ext. M-5) not only the concerned workman but also another peon named Dasrath were ordered to attend the office in the matter of exchange of records and keeping them properly and they were directed to pay special attention for keeping the records properly and find it out when needed and supply to the clerks concerned. This order was passed in the year 1966 when there was admittedly an independent record clerk. Therefore, the aforesaid work regarding records which not only the concerned workman but also another peon named Dasrath were ordered to do really pertain to record room peons and not to record clerk. Sri A. B. Asthana worked as record clerk till 1973 when his designation was changed to that of record clerk-cum-security clerk with effect from 1-4-1973 by letter dated 12-9-73 (Ext. M-219) and thereafter also he admittedly continued to work as record clerk till his promotion as security assistant by letter dated 4-11-76 (Ext. M-228) with effect from 1-4-76. But in that very letter there was a direction that he will also maintain office and other records as hitherto. Therefore, Sri A. B. Asthana was not absolved from the duty of maintaining the records of the record room which he was hitherto maintaining and this state of affairs continued till Sri A. B. Asthana resigned from the post of security assistant in July 1982. After the promotion of Sri A. B. Asthana from the post of record-cum-security clerk to the post of security assistant by letter dated 4-11-76 (Ext. M-228) with effect from 1-4-76, the post of record clerk was, however, not filled in and it is still lying vacant and the work of record clerk has been managed by the company by paying certain allowance to the concerned workman Sheo Shankar Singh, Peon and Sri K. D. Mittal, Despatch Clerk, in addition to their pay as peon and despatch clerk respectively, both of whom are partly sharing the work of record clerk, the concerned workman being given an allowance of Rs. 15 per month with effect from 1-10-78 which was subsequently increased to Rs. 25 per month with effect from 1-1-80 and Sri K. D. Mittal being given an allowance of Rs. 30 per month with effect from 1-2-79 which was increased to Rs. 60 per month with effect from July, 1982 when Sri K. D. Mittal took complete charge of record room on the resignation of Sri A. B. Asthana. Therefore, though the concerned workman Sheo Shankar Singh, peon, is looking after some work of the record room it cannot be said that he is either performing all the functions of a record clerk or he is working as a record clerk. His case, therefore, is not a case of fitment but of promotion. His claim, therefore, that the management may be directed to give him the post, designation and grade of record keeper or record clerk atleast with effect from December, 1977 is not justified specially when he passed his matriculation examination on 10-7-79 (vide matriculation certificate dated 10-7-79).

Ext. W-3) which alone made him eligible to be considered for promotion from peon Class IV cadre to record keeper Class III cadre according to the memorandum of settlement dated 27-4-70 (Ext. M-4) and when even after the promotion of Sri A. B. Asthana from the post of record-cum-security clerk to the post of security assistant by order dated 4-11-76 (Ext. M-228) with effect from 1-4-76 he was directed to maintain office and other records as hitherto and when after the resignation of Sri A. B. Asthana in July 1982, Sri K. D. Mittal, Despatch Clerk, took complete charge of the record room. The evidence on the record also do not show that the concerned workman had ever made any representation to the management for giving him the post, designation and grade of record clerk. The last representation which he had made is dated 20-3-79 (Ext. M-222) in which he had only prayed for increasing his allowance from Rs. 15 to Rs. 50 for doing certain work of record room whereafter his allowance was increased from Rs. 15 to Rs. 25 by order dated 26-3-80 (Ext. M-223) with effect from 1-1-80. In his written statement the concerned workman has referred to his representations dated 12-7-79, 20-8-79, 5-12-79 and 28-12-79 but copies of no such representations have been filed. Moreover, the demand of the concerned workman who is a peon in Grade IV to be appointed as record clerk in Grade III is obviously a demand for promotion which, as has been held in the aforesaid Supreme Court decision in the case of Hindustan Lever Ltd. Vs. The Workmen (supra) is a management function and in the absence of any malafide or victimisation of the concerned workman for trade union activities or any unfair labour practice, the Tribunal cannot arrogate to itself the promotional function of the management specially when it appears for Appendix 'A' of the memorandum of settlement dated 29-4-83 (Ext. W-7) that between the revised scale of pay of Rs. 200-224 of a peon and the scale of Rs. 260-466 of a record clerk there are as many as 12 other intermediate scales in respect of the intermediate categories of employees who are not parties to this reference and who may have a preferential claim to the post of record clerk in the higher scale of Rs. 260-466. As is evident from the letter dated 30-5-81 (Ext. M-224) written by the General Manager of the company to the Asstt. Labour Commissioner (C), Patna, during the pendency of the conciliation proceeding, the management has no proposal to appoint a record keeper. Therefore, when in future the management decides to fill up the post, it would be for the management to decide for itself whom to promote to that post regard being had to the seniority, merit and fitness for the post.

23. In view of what has been discussed above, it is held that the action of the management in denying the job of record keeper to the concerned workman Sheo Shankar Singh, Peon, is justified and he is not entitled to any relief. In the circumstance of the case, however, there will be no order as to cost.

MANORANJAN PRASAD, Presiding Officer

[No. L-41012(2) 82-D.II(8)]

S.O. 143.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government

hereby publishes the following order of the Central Government in the industrial dispute between the employers in relation to the management of Beas Design Organisation, Nangal Township and their workman, which was received by the Central Government on the 19th December, 1983.

BEFORE I. P. VASISTH, PRESIDING OFFICER,
CENTRAL GOVT. TRIBUNAL, CHANDIGARH

Case No. LD 109/83/95 of 1980

PARTIES.

Employers in relation to the management of Beas Design Organisation Nangal Township—Punjab

AND

Their Workman—Jagdish Ram

APPEARANCES:

For the Employers : Shri R.I. Kanth

For the Workman: Shri R.K. Singh.

PROJECT : Beas Design Organisation Nangal State—Punjab.

AWARD

Dated the 15th of December, 1983.

The Central Govt. Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the Industrial Disputes Act 1947, hereinafter referred to as the Act, vide their Order No. I-42012 (26) 79-D.II B. dated the 11th of Sep. 1980 read with S.O. No. S-11025 (2), 83 dated the 8th of June 1983 referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management of Beas Design Organisation, Nangal Township, in non-payment of wages for the period from 16-10-1975 to 30-12-1975 and also in retrenching the workman, Shri Jagdish Ram, ex-carpenter, from service with effect from 22-9-1978 is justified? If not, to what relief the workman is entitled?"

2. Brief facts of the case, according to the petitioner/workman are, that was employed by the respondent/management as a Carpenter-Workcharge w.e.f. 3-10-1974 and he continuously worked there till 15-10-1975 when his services were terminated in breach of the provisions of Section 25-F (a) and (b) of the Act. He challenged his termination before the A.L.C. (C), Chandigarh who took up the conciliation proceedings and arranged a settlement between the parties with the result that the petitioner was taken back in service w.e.f. 31-12-1975 with an understanding that his back-wages would also be paid in full and the intervening period shall be deemed to as on duty. But when he insisted on the recovery of back-wages, the respondent tried to wriggle out of the Agreement on the pretext that they were not an 'Industry'. This forced him to initiate formal recovery proceedings under Section 33-C (2) of the Act before the Central Labour Court Jullunder; however he lost the case on account of a technical defect in the Agreement as it did not bear his signatures.

3. Faced with the situation, the petitioner-Workman again raised an Industrial dispute but nothing fruitful came out of the conciliation proceedings. His obvious grouse was that the very act of his termination by the management on 15-10-1975 was illegal being violative of the provisions of Section 25-F (a) and (b) of the Act. But all the same after his re-instatement on 31-12-1975 he was allowed to continue in service upto 21-9-1978 when the impugned termination was ordered with the repeat performance of non-payment of retrenchment compensation. Moreover, the respondent Management retained one Sita Ram Carpenter in service even though he was junior to him whereas the benefit of Reservation was denied to him in spite of his being a member of the Scheduled Caste (Hajjan). However, in view of his objection the management dispensed with the service of Sita Ram also on 30-10-1978.

4. The petitioner/Workman, therefore, issued a demand notice and raised an Industrial dispute with regard to his termination w.e.f. 22-9-1978 and since the matter could not be settled amicably, hence the Reference.

5. Resisting the claim petition on all counts, the Respondent management denied the infringement of any statutory provisions in the impugned termination. It was averred that the claim for the back-wages could not be raised in the instant proceedings whereas no valid dispute existed on the point of termination so as to call for its adjudication by the Tribunal. On the point of fact, it was projected that the initial appointment of the petitioner was purely on temporary basis for a period of one month which could be dispensed with at any time without notice to either side; all the same the petitioner was allowed to continue on his assigned job till 30-4-1975 and was again employed on 8-5-1975 with the extended term upto 15-10-1975 when the discharge order was passed without payment of any compensation for the simple reason that he had not put in a continuous service of one year. However, a settlement was arrived at before the A.L.C.(C) even though it was not legally valid. But in view thereof, the petitioner was given re-employment w.e.f. 1-1-1976.

6. It was vehemently denied that any person junior to him was retained in service; rather it was propounded that Sita Ram was working for them on transfer from B.S.L. Project Sundernagar which was under the control of a different Employer and on whose asking he was relieved on 18-9-1978.

7. Be that as it may, as a gesture of good will they offered to pay him the back-wages for the period from 16-10-1975 to 31-12-1975 without any pre-conditions. Last but not the least, it was averred that the particular job for which the petitioner was employed had since been completed and thus there was no scope of his retention or re-employment.

8. Since the respective pleadings of the parties appeared to be fully covered under the terms of Reference, therefore, my learned predecessor proceeded to record their evidence without feeling the necessity of framing any formal issue; actually the evidence of the Workman, which consisted of his own statement and a few documents was completed during his tenure. In rebuttal thereof, the management also examined their Asstt. Design Engineer, Shri M.M. Mittal and filed a number of documents.

9. For the better appreciation of the point in dispute, a back glance into terms of Reference would be pertinent in the sense that it required determination on two distinct aspects of the case, firstly about the non-payment of Wages for a particular period and Secondly, about the retrenchment effective from 22-9-1978. In all fairness to them, the management agreed that, irrespective of the legal implications, they, as a model Employer, were willing to pay the wages for the relevant period i.e. from 16-10-1975 to 31-12-75 and that the necessary orders may be passed in that context. I, accordingly, direct the management to make the payment forthwith.

10. That directly confronts this Tribunal with the main issue as to how far the retrenchment/Termination was justified. At the risk of repetition it may be pointed out that the petitioner had tried to assail the impugned Order on two specific grounds: firstly, non-payment of retrenchment compensation and secondly, that one of his junior Sita Ram was retained in service.

11. Insofar as the retention of Sita Ram is concerned, the respondents' explanation that, as a matter of fact he was not their employee, and that he was working for them on transfer from a different Employer, concerned with the management of B.S.L. Project and was reverted back to his parent department on 18-9-1978 i.e. prior to the impugned Termination, finds a reflection of credibility in the petitioner's own deposition during the course of cross-examination. I, therefore, hold that the termination cannot be faulted on this score.

12. Similarly a careful scrutiny of the records would expose the hollowness of his effort to impeach it due to non-payment of retrenchment compensation also. The first and foremost reason is that the particular job for which he was employed had since been completed and he, on having become a stark surplus for the assigned work of Binding Models could not be retained in the Organisation. This information was conveyed to the petitioner also in the discharge notice Ex. W 7 and re-affirmed through the evidence of the concerned Asstt. Design Engineer Shri Man Mohan Mittal who was not confronted with any contrary suggestion even though he entered the witness-box to face the acid test of cross-examination.

13. In the matter of Sunder Singh and another Vs. Beas Construction Board 1979 Lab. I.C. 12-AIR Punjab and Haryana 1, it was held that since the Undertaking was in the process of closing down, therefore payment of retrenchment compensation was not a condition precedent. It hardly requires any emphasis that the respondent Organisation is a part and parcel of the aforesaid Beas Construction Board which was held to be immune from the obligation of making simultaneous payment of retrenchment compensation, i.e. by virtue of Section 25-FFF of the Industrial Disputes Act 1947. Consequently in the absence of any evidence on records that the respondent Organisation was still functioning with any employee in the Model Building Section, the cause of the petitioner stands doomed.

14. In his bid to salvage something out of nothing, Shri R.K. Singh, the authorised representative of the Workmen, referred me to the cases of Avon Services Ltd. Vs. Industrial Tribunal Haryana (1978) 53 Factories Journals Reporter 341; R. Shankaran Vs. Addl. Labour Court Madras (1977) 50 Factories Journal Reporter 28 and Raghbir Singh Vs. Beas Construction Board (1978) 52 Factories Journal Reporter 451 with the submission that partial closure of any particular Wing was not sufficient to seek shelter under the umbrella of Section 25-FFF. Elaborating his point, Shri Singh contended that according to the admitted case of the respondent Management the amount of compensation was offered on 22-9-1978 whereas the retrenchment was effected on 21-9-78, therefore, it was void in the eye of Law.

15. In spite of its seeming attraction, the submission failed to carry conviction with me primarily because it is based on certain assumptions. Insofar as the ratio of Raghbir Singh is concerned, the same can no longer be accepted to be a good law in view of the full Bench pronouncement in the matter of Sunder Singh and another.

16. The facts of R. Shankaran were of an entirely different nature because in that case the retrenchment compensation was offered to the workman by way of a Cheque issued after the Banking-hours. But in our case the compensation amount was offered to the Workman as early as on 7-9-1978. The statement of Shri M.M. Mittal should leave no manner of doubt that the workman deliberately absented himself from duty on 19, 20 and 21st September 1978. It was in view thereof that on the very next working day the management remitted the amount by way of Money Order which was declined by him as should be evident from the relevant postal receipt and endorsement Exs. M17 to M19. It may also be worthwhile to note that during the cross-examination the workman himself admitted that he did not attend the duty on the aforesaid three dates, though he would have us believe that it was due to the ill health of his father that he did not attend the office. Strangely enough, he did not bother to support his explanation by any worthwhile evidence. I, therefore, feel that it was a peculiar case in which the workman himself frustrated the tender of compensation.

17. Similarly the case of Avon Services Ltd. is also distinguishable on facts because in our case there was complete closure of the entire Organisation consisting of the Building Model Section, where the petitioner-Workman was employed.

18. Since no other point was raised before me, therefore, to sum up my aforesaid discussion on the limited available data I find no impropriety, irregularity or illegality in the petitioner Workman's retrenchment and as such, on sustaining the action of the management, I return my Award against

him. To be precise, except for the recovery of the back wages mentioned herein before in para No. 9 of the Award, he is not entitled for any relief.

15-12-1983

[No. L-420(2)/26/79/D-II(B)]

L. P. VASISHTH, Presiding Officer

New Delhi, the 6th January, 1984

S.O. 144.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2 Bombay in the Industrial dispute between the employers in relation to the management of Air India, Bombay and their workmen, which was received by the Central Government on the 20th December, 1983

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri M. A. Deshpande, Presiding Officer.

Reference No. CGIT-2/21 of 1983

Employers in relation to the Management of Air India.

AND

Their Workmen

APPEARANCES:-

For the Employers—Shri S. K. Bhasin, Representative.

For the workmen—Shri Mohan Bir Singh, Trade Union Official.

INDUSTRY : Air lines STATE : Maharashtra
Bombay, the 19th November, 1983

AWARD PART I

By their order No. L-11011(8)/83-D.II(B) dated 11-5-1983 the Central Government referred the following dispute for adjudication under Section 10(1) (d) of the Industrial Disputes Act, 1947 :—

“Whether the demands of the Air India Cabin Crew Association that the management of Air India should increase (i) the existing Bar Loss Compensation Allowance to the Flight pursers and Senior Check Flight pursers; and (ii) Layover Allowance or any other allowance in lieu thereof in respect of the members of Cabin Crew payable at all foreign and Indian out-stations are justified? If so, to what relief are the workmen concerned entitled?”.

2. The order of reference speaks of Bar Loss Compensation Allowance to the Flight pursers and Senior Check Flight pursers and Layover Allowance or any other allowance in lieu thereof. The case of the Cabin Crew or the workmen is being espoused by the Union called Air India Cabin Crew Association who have filed the statement of claim which has been refuted by the management on various grounds but for the purpose of relevant issues which are being tried as preliminary issues the contention of the management is that the Union is estopped from raising any dispute by virtue of Settlement dated 8-4-1982 and the Memorandum of understanding dated 11-4-1983. It is contended that the settlement dated 8-4-1982

is still valid and binding on the parties and since according to the management the same has not been terminated as required under Section 19 of the Industrial Disputes Act it operates as a bar binding the parties to the dispute and therefore it is alleged that the present reference is infructuous and untenable. In reply to this Union is citing the agreement dated 7-5-1983 arrived at in the presence of the Conciliation Officer and it is stated that the earlier correspondence as well as this agreement supersedes the settlement in question namely 8-4-1982 and therefore there is no longer any bar in the path of the Union to raise a dispute.

3. Now there are four important dates which are to be considered namely 8-4-1982 on which date the settlement is admittedly arrived at between the very parties, 11-4-1983 when the Memorandum of understanding was entered into, 7-5-1983 which is an agreement before the Conciliation Officer whereby both the parties agreed to get the demands adjudicated and lastly there is the date of reference 12-5-1983. Before the settlement dated 8-4-1982 I am given to understand that there were similar Memorandum of understandings which culminated in the relevant settlement and this Memorandum of understanding in the year 1981 was preceded by the charter of demands dated 1-1-1980. The earlier Memorandum of understanding was in act dated 19-8-1981. Now although the settlement was arrived at on 8-4-1982 the record speaks that it was to remain in force till 30-9-1981. Term 3.2 of the settlement says that the terms of settlement as contained in this understanding shall have effect from 1-4-1978 and shall remain in force till 30-9-1981 and even thereafter until the settlement is terminated by either party by giving a notice of termination in writing and for a period of two months from the date of such notice of termination. In other words the provisions of Section 19(2) of the Industrial Disputes Act have been incorporated. Now what has given rise to the present controversy and technicality due to which chariot has bogged down is at para 5 where we notice the names of the authorities to whom the copies were sent. On behalf of the Air India the settlement is signed by the Director of Personnel & Industrial Relations and the Deputy Director of Inflight Service while on behalf of Air India Cabin Crew Association the President and the Asstt. General Secretary and there appears below the signature the word witness and it can be said that other formalities were completed and what is to be seen is whether it lacks in any manner so as to extricate here, at least in relation to the settlement dated of the Act. If the Union succeeds in doing so and if the subsequent agreements are opposed to Section 18 and 19 of the Act, particularly the contention of alleged lack of notice would automatically fall down.

4. Section 2(p) of the Industrial Disputes Act defines what is known as ‘settlement’ and it says that a settlement means a settlement arrived at in the course of conciliation proceeding which is not the case here, at least in relation to the settlement dated 8-4-1982. The definition further goes on to read “and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by parties thereto in such manner as may be prescribed and a copy thereof has been sent to an

officer authorised in this behalf by the appropriate Government and the conciliation officer". The terms of settlement so far as the Industrial Disputes Act is concerned because of the definition of Section 2(p) carries a special import particularly because we find reference to the same under Sections 18 and 19 of the Act to which a reference would be shortly made. Normally when two parties decide to enter into agreement, the said decision governs manner of execution of the writing signed by the persons authorised to execute the same. However when it becomes a settlement then so far as the operation of such settlement is concerned, it has been given a special status. If it is merely an agreement not attracting the provisions of Section 2(p) it would remain in force as may be contemplated by the parties but its life would be as may be stated in the agreement itself. It may be for short period, it may be for long period but to what period it is to operate would be left for the determination of the parties. In the case of the settlement also such authority does exist but then by virtue of Section 19 at least certain provisions have been made and even after its termination by one party or other, the statute has made it to operate for two months thereafter and it is also well-settled law and that such settlement shall continue to be binding on the parties till the same is replaced by another set of terms. Such provision is found necessary because ultimately industrial legislation is for the harmonious relation between the parties and to avoid any disruption thereof. When the settlement binds the parties at least till the time the settlement is valid and in force, the parties would be estopped from raising the demand till the same is brought to an end by resorting to means as provided in the provisions.

4. When we are on the point of Section 2(p) of the Act and when we notice that the agreement or settlement should be in such manners as may be prescribed, we must immediately turn to Form 'H' and Rule 58 of the Industrial Disputes Central Rules, 1957 and Rule 58(4) says that where the settlement is arrived at between the employers and his workmen otherwise than in the course of conciliation proceeding the parties to the settlement shall jointly send a copy thereof to the Central Government, the Chief Labour Commissioner (Central) New Delhi and the Regional Labour Commissioner (Central) and to the Conciliation Officer (Central) concerned, Form 'H' which is the prescribed form also enumerates these various authorities in reverse order. Now we have already seen in the instant case that no copy admittedly was sent to the Central Government though copies as seen on page 5 of the settlement were sent to the three other authorities enumerated in rule 58 as well as in form 'H' and this non-sending of copy to the Central Government or the Secretary to the Government of India, Ministry of Labour and Employment has given rise to the contention on behalf of the Union challenging the very nature of the settlement to be as contemplated by Section 2(p) of the Act.

5. I have already pointed out that when an agreement arrived at between the parties gets the status of settlement under Section 2(p), it carries different consequences. Section 18(1) no doubt says that the

settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement which also would indicate whether it is a mere agreement or settlement. Different consequences however flow when we turn to Section 19 sub-section (2) of the Act where such settlement would be binding for such period as is agreed upon by the parties and it further says that it shall continue to be binding on the parties after the expiry of the period, until the expiry of two months from the date on which a notice in writing of the intention to terminate the settlement is given by one of the parties to the other party. Section 19(2) of the Act therefore speaks of notice of intention to terminate the settlement and the period of operation does not stop there but continues till two months from the said date.

6. When an agreement privately arrived at may become a settlement as contemplated under Section 2(p) and further when the relevant provisions as well as rules 58 and the Form 'H' speak of particular formalities to be observed by sending copies to different authorities, can it be said that the relevant part of the provision whether of Section or the rules or of the form is merely directory and not mandatory. If it is held to be not mandatory then the absence of sending of the copies to the Central Government or the Secretary of the Government of India, Ministry of Labour and Employment would not in any way adversely affect the settlement and its validity and it would still attract Sections 18 and 19 of the Industrial Disputes Act but against this if provisions are found to be mandatory, then particularly the lacuna is bound to go to the root of the matter and in that case the settlement or the document lose the force of Section 2(p) Settlement.

7. No doubt it is true that in a similar provision under Section 25F of the Act which speaks of observance of certain formalities, notice is required to be sent to the appropriate Government or such authorities as may be prescribed by the Appropriate Government. While construing the provisions the present law is that part of Section 25F(c) is not mandatory although provisions laid down in the earlier part are of that nature and therefore if the other provisions are fulfilled, non-sending of copies, as the law now stands, cannot be derogatory to the action taken by the management.

8. It is true that both the provisions are of the same Act but when comparison may not be a useful guide, particularly as already seen the consequences of an agreement becoming a settlement for which particular procedure has been laid down are far reaching. If the document remains merely as an agreement, neither Section 19 nor the earlier Section would be attracted and in that case the rights and the liabilities would be purely determined by writing in the settlement or the document. However when statute by way of Section 19(2) of the Act has conferred special status and if that status is to be resorted to for the purpose of repelling the particular action, will it not be necessary to observe the conditions prescribed in the statute, rule and form?

9. Similar question arose before the Lordships of Supreme Court in the case of the Shugrakhan Collieries (P) Ltd. Vs. Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Jabalpur reported in 1975 LAB. I. C. 137 and it was observed that a written agreement in order to fall within the definition [definition of Section 2(p) of the Act] must satisfy two more conditions, namely (a) it must have been signed by the parties thereto in the prescribed manner and (b) a copy thereof must have been sent to the authorities indicated in Section 2(p). I have already referred to the law regarding Section 25F. It was laid down by the Lordships of the Supreme Court in the case Bombay Union of Journalists and others Vs. State of Bombay reported in 1964(1), LLJ, page 351 where after comparing sub-section (a), (b) and (c) of Section 25F it was held that sub-sections (a) and (b) were mandatory and not sub-section (c) and to arrive at this conclusion it was observed that the object which the legislature had in mind in making conditions in clauses (a) and (b) obligatory and in constituting them into conditions precedent is obvious because these provisions have to be satisfied before a workman can be retrenched and there is every justification for making them conditions precedent and the same cannot be said about the requirements as to clause (c) which is not intended to protect the interests of the workmen as such. It is only intended to give intimation to the appropriate Government about the retrenchment.

10. Reference ultimately is made by the Central Government on receipt of the report from the Conciliation Officer and they are not blindly to follow the report but have to apply their mind. If it is found that a settlement particularly under Section 2(b) of the Act is still binding on the parties, as in the case of the Award of the Tribunal which is not terminated, the Central Government will have to consider whether a reference can be made or not because if the settlement or the award is binding on the parties, the parties cannot raise a dispute and if the parties cannot raise a dispute there cannot be any dispute which fact must be considered by the Government and that must be the reason, a copy to the said Government is found necessary. It is not a mere empty formality like Section 25F(c) but a condition which is at the more necessary otherwise the Government may fall in error and in that case jeopardising the whole reference. The arguments therefore because under Section 25F the clause relating to notice to the appropriate Government is found to be directory, the same rule should be applied to Section 2(p) loses all its force.

11. Undoubtedly in Kalinga Jute Products (Pvt.) Ltd. Vs. Presiding Officer, Industrial Tribunal and others (1980(1), LLJ, page 239) it was found that the rule requiring that the copy of the settlement jointly to be not mandatory but even accepting his principle it does not absolve the parties from sending copies to the various authorities including to the Government and therefore assuming that the word jointly is not to be read in relevant provision, still the force of Section 2(p), Rule 58 and Form 'M' still the force of the requirements thereunder would still remain with all its vigour and if so viewed and in my

view no other conclusion is possible, the material requirements as laid down by the statute and the statutory rules in the case of settlement dated 8-4-1982 being absent it would be nothing but an agreement arrived at between the parties.

12. For one reason or the other the management also by their conduct seems to have not attached that importance to the settlement in questions in the settlement under Section 2(p) of the Act but the record speaks has at least on two occasions they were prepared to vary the terms or submit the dispute for adjudication without waiting for notice of termination on the part of the Union. Strenuous argument was advanced in the course of hearing of the reference to the effect that no notice of termination as required under Section 19(2) of the Act has been served by the Union, that correspondence and other writing cannot be allowed to take place of such statutory notice and that in the absence of any writing stating the date on which according to the Union the settlement was terminated, the settlement dated 8-4-1982 must be held to be still valid and in force and therefore binding on the parties. While arguing in this manner before the Tribunal, the management however acted in different manner. While the settlement is alleged to be still in force, when there was no notice of termination as now tried to be stressed, on 11-4-1983 a Memorandum of Understanding was reached relating to some of the items which are to be found place in the settlement dated 8-4-1982. Had the management really thought it necessary to have a notice of termination, the objection which is now being advanced on their behalf was necessary on 11-4-1983 and in that case if the earlier settlement has decided the rights in a particular manner, why any deviation was thought of. There was revision of pay scales and also there was upward revision of variable Dearness Allowance and the management could have insisted that till the time the settlement is in force, the demand for something more is against the terms of settlement which they failed to do.

13. The matter did not rest there but on 7-5-1983 in the presence of the Conciliation Officer a settlement was arrived at whereby it was agreed that it would be conducive to harmonious industrial relations between the parties, if the Government of India refers under Section 10(1) of the Industrial Disputes Act, 1947 the demands which are the subject matter of the present reference. It was because of this understanding that the Union agreed to withdraw their directive and further agreed to adopt constitutional, legal and lawful means to resolve all disputes against which in the case of chargesheeted employees their action was agreed to be kept in abeyance till the reference by the management. Now if there was no notice, if the earlier settlement was under Section 2(p) of the Act and if the same was binding on the parties and was to remain in operation till the date of termination, I cannot believe that the management would have surrendered their right arising out of such settlement and entered into such a fresh settlement, of course by not determining the right but agreeing to refer the dispute for adjudication. If the earlier settlement was a Section 2(p) settlement, then the rights flowing therefrom would be the statutory right laid down by the statute and as has been rightly contended on behalf of the management in that case there should

not be any case of estoppel of the right flowing from the statute. This assertion which is now advanced before the Tribunal was safely forgotten when the settlement was arrived at and that must be the cause to the knowledge of the management the earlier settlement dated 8-4-1982 had not reached the status of settlement under Section 2(p) of the Act. There is no other explanation. Air India must have had their own legal assistants and what is now tried to be urged they should have brought to the notice of the Union at the relevant time and the matter would have ended there.

14. If the settlement is not 2(p) settlement as already held earlier, the question of estoppel etc. can never arise. Undoubtedly even in the settlement dated 8-4-1982 it was decided that shall have effect from 1-4-1978 and shall remain in force till 30-9-1981 and thereafter until the settlement is terminated by either party by giving a notice of termination in writing and for a period of two months from the date of such notice of termination, which is the phraseology used in Section 19(2) of the Act. However if the document is shorn of the statutory qualifications, then it merely becomes an agreement between the parties which agreement in the absence of the statutory bar the parties can decide to discard in entirety or at least any one or other term and if so done nothing prevents them from doing so. Even if clause 3.4 speaks of the operation of the settlement and Memorandum of understanding dated 11-4-1983 although did not attain the status of fullfledged settlement, the minutes of discussions before the Conciliation Officer dated 7-5-1983 shall have to be given effect to as per the plain language thereof and though the reference is not under Section 10(2) of the Act there can operate no bar and if there is no bar and if a particular demand is referred for adjudication namely to find out whether there is justification or not, the reference shall have to be decided on merit.

15. In case I would have not accepted the Union's contention and would have treated the settlement dated 8-4-1982 to be settlement under Section 2(p) of the Act since there is no valid notice issued by the Union for the termination the contention of the management that till the time the settlement is in force and for two month from the date of termination, there cannot be any reference would have been accepted. To overcome the difficulty in not issuing the notice the Union has taken me through the correspondence and the earlier events but in the absence of a specific date from which date the termination would be said to have been brought about, the conduct as displayed by the correspondence could have never attained legal status of legal notice. In this connection my attention was drawn to the ruling in *Western India Match Co. Vs. their workmen* reported in 1962(I), LLJ, page 661 where it was held that the various representations made on behalf of the workmen and the presentation of charter of demands were held sufficient to terminate the settlement. However when again a similar argument was advanced at the time of *Bangalore Woollen, Cotton and Silk Mills Company Ltd. Vs. Their workmen* case reported in 1968(I), LLJ, page 555 at page 559 it was held that certainty regarding date is absolutely essential, because the period of two months, after the expiry of which, the award will cease to be binding on the parties, will have to be reckoned, from the date of such clear intimation. While laying down such rule

the case reported in 1962 (I), LLJ, page 661 was explained and it was pointed out that there was a letter of 8-4-1967 written by the Union amounting to notice of termination of settlement, which was absent in the subsequently mentioned case. When it was tried to be urged that the *Western India Match Company Ltd.* speaks of the correspondence even as proof of termination it was observed that the decision does not lend support to such a view. The contention therefore on behalf of the Union that the letters written, correspondence entered into, the Memorandum of understanding dated 11-4-1983 all indicate that the earlier settlement stood terminated, cannot be accepted. The termination was not as required by Section 19(2) of the Act although if it is to be treated as a private agreement between the parties there is sufficient proof to hold that the very parties decided to vary the terms on the earlier occasion and when the dispute persisted they decided to get it adjudicated.

16. If continuance of the harmonious relation is the chief aim of the two parties i.e. the management on one side and the workmen on the other, if they so worked for the same aim, it is necessary that effect is given to the settlement arrived at before the Conciliation Officer dated 7-5-1983 whereby the demands were agreed to be referred for adjudication. Attempt was made distinguish between the word 'Demand' and 'Dispute' and it tried to be urged that what is referred was a demand and not a dispute. Unless there are demands and unless there is resistance there cannot be dispute and unless there is dispute there is no occasion for reference. Only because the parties used the word demand and what is referred is a dispute, no fault can be found with the order of reference nor thereby the validity of the reference would be in any way affected.

17. I wish to note here specifically that had the finding regarding the nature of the settlement dated 8-4-1982 not gone against the management in other words had not held not a settlement under Section 2(p) of the Act, all other objections raised by the management would have been accepted and in that case at least the reference made on 12-5-1983 would have been found to be not legal and valid reference particularly when, despite the agreement dated 7-5-1983, the same would not have acted as estoppel against the management.

18. Section 18(1) says that the settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. It was therefore urged that since there are some new additions to number of staff serving as Cabin Crew, subsequent to the settlement dated 8-4-1982 and further it is urged that since some new members have joined the organisation thereafter, even if other arguments of the Union failed at least these new additions would not bound by the terms of the settlement and in that case and on their behalf no notice was necessary nor any bar could have been operated. This is however a factual question which one party has to assess and when denied has to establish and therefore in the absence of sufficient material duly proved, it is better that I refrain from on relying on the data to which my attention was drawn. I may mention here that *Shri Singh* cited the decision of *Bombay High Court* in *Cooper Engineering Ltd. Vs. D.M. Aney and others*, 1971, LAB. I. C. 603 where such argument was

accepted. However for the reasons already stated namely for want of proof relating to the matter which becomes factual and not legal one, it requires that I do not hold one way or the other.

19. Lastly Shri Basin urged that when the copies of the settlement dated 8-4-1982 even if not sent to the Central Government and were sent to the other three authorities mentioned thereunder as per the list in form H and Rule 58, it is a substantial compliance relieving the management of the duty to submit it to the Central Government also and if it is a substantial compliance, the validity as a settlement under Section 2(p) cannot be accepted. However I find for the reasons already stated, because a fulfilled agreement under Section 2(p) not merely require substantial compliance but full compliance is necessary which is lacking in the instant case and therefore that argument cannot be accepted. The authorities are speaking of substantial compliance but although they had agreed in a settlement before the Conciliation Officer to have a reference for adjudicating the two demands, they have backed out from their promise and are opposing the reference on technical ground. The person who wants to plead equity also must do equity. Similarly those who wants to rely upon the technicality also must perform their duties strictly under the acts and regulations. If therefore they want to oppose the reference the compliance must not be substantial as tried to be pleaded but in full which the authorities have failed to do.

20. The net result is that the objection based on Section 19(2) of the Act for want of supporting mainstay become unacceptable. My findings on preliminary issues are as follows :—

ISSUES

FINDINGS

- | | |
|--|---|
| 4. Whether the settlement dated 8-4-1982 and the Memorandum of Understanding dated 11-4-1983 are still valid, subsisting and binding on the parties ? | Yes but not as Section 2(p) settlement. |
| 4A. Whether the agreement dated 7-5-1983 arrived at in the presence of the Conciliation Officer superseded the earlier settlement, agreement including settlement dated 8-4-1982 and whether it gives legal right to the Union to press their demand in question ? | Yes |
| 5. Whether the Union is estopped from raising any dispute regarding the two demands by virtue of the settlement dated 8-4-1982 and the Memorandum of Understanding dated 11-4-1983 ? | No |

Dated 23-11-1983.

M. A. DESHPANDE, Presiding Officer,
Central Government Industrial Tribunal,

No. 2, Bombay.

[No. L-11011(8)/83-D. II(B)]

T. B. SITARAMAN, Desk Officer

New Delhi, the 30th December, 1983

S.O. 145.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad in the industrial dispute between the employers in relation to the management of Alkusa Colliery of Messrs Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 20th December, 1983.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR

COURT NO. 3, DHANBAD

Reference No. 12/83

PRESENT :

Shri J. N. Singh, Presiding Officer.

PARTIES :

Employers in relation to the Management of
Alkusa Colliery of M/s. Bharat Coking Coal
Ltd., District Dhanbad.

AND

Their workman.

APPEARANCES :

For the Employers—Shri R. S. Murthy, Advocate.

For the Workman—None.

INDUSTRY : Coal.

STATE : Bihar

Dated the 13th December, 1983

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them u/s 10 (1)(d) of the Industrial Disputes Act, 1947 (14 of 1947) has referred the dispute to this Tribunal for adjudication under Order No. L-20012(42)/83-D.III (A) dated the 23rd May, 1983.

SCHEDULE

"Whether the action of the management of Bhagaband Area of M/s. Bharat Coking Coal Ltd., Dhanbad in not giving a proper category and emoluments to Shri Lalu Prasad, originally appointed at Alkusa as driver in November, 1979, taking into account his qualifications, experience and military service, is justified ? If not, to what relief is the said workman entitled and from what date ?"

2. The union did not appear to file their written statement inspite of registered notice issued to them. The management, however, filed their written statement denying the claim of the concerned workman. The union was also sent registered notice to come ready for hearing of the case. But inspite of it they did not appear.

3. It appears that there is no dispute between the parties and the union has got no interest in the case.

4. In the circumstances there is no alternative but to pass a 'no dispute' award. The award is passed accordingly.

J. N. SINGH, Presiding Officer

[No. L-20012/42/83/D-III(A)]

A. V. S. SARMA, Desk Officer

New Delhi, the 31st December, 1983

S.O. 146.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad in the industrial dispute between the employers in relation to the management of Chairman-cum-Managing Director, Central Coalfields Limited, Ranchi and their workmen, which was received by the Central Government on the 19th December, 1983.

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD
REFERENCE NO. 28/81

PRESENT :

Shri J. N. Singh, Presiding Officer.

PARTIES :

Employers in relation to the management of Chairman-cum-Managing Director, Central Coalfields Ltd., Ranchi.

AND

Their workmen.

APPEARANCES :

For the Employers—Shri R. S. Murthy, Advocate.

For the Workmen—Shri B.K. Das Choudhury and

Sri M. M. Shah, Advocates

INDUSTRY : Coal. STATE : Bihar

Dated, the 13th December, 1983

AWARD

The Government of India in the Ministry of Labour in

PROMOTIONS DISPARITIES IN CALCUTTA ACCOUNT OFFICE OF C.C. LTD.
List of U.D.C.s of Calcutta Accounts Office who have been superseded by Sri S. Banerjee & Sri P.K. Kar

exercise of the powers conferred on them U/S 10(i)(d) of the Industrial Disputes Act, 14 of 1947 has referred the dispute to this Tribunal for adjudication under Order No. L-19011(1)/80-D, IV(B) dated the 28th May, 1981.

SCHEDULE

(1) Whether the action of the management of the Central Coalfields Ltd., Darbhanga House, Ranchi in transferring S/Shri S. B. Chatterjee, Ajay Chatterjee, Pulak Kar, S. N. Guin, G. Balasubramaniam and Subrata Banerjee UDCs and Sri Ashru Sengupta Senior Accounts Clerk at random to Coal Sales Offices, Western Coalfields Limited, Calcutta on 21-10-75 and of the Western Coalfields Ltd., Nagpur in promoting S/Shri Ajay Chatterjee, Pulak Kar, S. N. Guin, G. Balasubramaniam, Subrata Chatterjee, as Senior Accounts Clerks and Shri S. B. Chatterjee, UDC and Sri Ashru Sengupta, Senior Accounts Clerks as Superintendent over looking the seniority of the Clerks in the Accounts Office of the Central Coalfields Ltd., Calcutta whose names are furnished in the Annexure is legal, proper and justified? If not, to what relief are the concerned workmen entitled?

(2)* Whether the refusal by the management of the Central Coalfields Ltd., Darbhanga House, Ranchi to promote and post Shri B. K. Kundu, UDC, Accounts Office, Central Coalfields Ltd., Calcutta as Superintendent/Accountant in the office when vacancies arose subsequent to his refusal to accept promotion and posting as Superintendent/Accountant at Ranchi in the year 1973 is legal, proper and justified in the circumstances? If not, to what relief is the concerned workman entitled?

Sl. No.	Seniority position as per Cadre list	Name	Promoted as U.D. Clerk	Remarks
1	2	3	4	5
1.	274	Smt. Sarma Roy	11-3-67	
2.	284	Sri S.K. Pal	1-6-67	
3.	297	„ H.P. Dutta	5-2-68	
4.	305	„ R.K. Chattoraj	18-6-68	
5.	315	Smt. Chinmoyee Bose	20-1-69	
6.	325	Sri P.K. Roy	10-3-69	
7.	329	„ S.K. Neogy	26-4-69	
8.	332	Meera Ghosh	20-1-69	(1) Sri. Banerjee at Sl. No. 16
9.	336	Shri H.B. Ghosh	28-3-69	has superseded his 15 seniors
10.	340	„ P.K. Banerjee	10-3-69	
11.	346	„ S.R. Chakraborty	20-1-69	
12.	357	„ B.K. Roy	3-2-69	(2) Shri Pulak Kar at Sl. No. 26 has
13.	371	„ H.K. Muhury	1-4-69	superseded his 24 seniors.
14.	372	„ T.P. Chakraborty	10-3-69	
15.	373	„ M.C. Roy	1-4-69	
16.	391	„ Subrata Banerjee	22-10-69	
17.	398	Maya Mukherjee	8-4-70	
18.	399	Shri A.K. Dalal	7-4-70	
19.	405	„ L.K. Pal	8-4-70	
20.	406	„ P. Sengupta	8-4-70	
21.	410	„ S.K. Das	8-4-70	
22.	415	„ R.K. Roy Chowdhury	12-6-70	
23.	418	„ K.K. Sen	10-6-70	
24.	421	„ M.R. Mukherjee	15-6-70	
25.	423	„ D.K. Dutta	17-8-70	
26.	432	„ Pulak Kar	19-10-70	

List of Part-I passed candidates of Calcutta Accounts Office of C.C. Ltd.

Sl. No. Name of Employee

1.	Sri D.K. Roy	Why they are not promoted as Superintendents even after pass C.A.S. Part-I examination
2.	„ C.R. Das	
3.	„ K.R. Subramaniam	
4.	„ M.C. Chatterjee	
5.	„ S.B. Chatterjee	Promoted as Supdt. at W.C. Ltd.
6.	„ S.N. Roy	Promoted as Supdt. at Coal India Ltd.
7.	„ B.K. Kundu	Passed Part-II C.A.S. examination in 1973 and working in C.C. Ltd. as Sr. Clerk.

2. The case of the union is that in 1956 the Govt. of India floated a Govt. Coal Company in the name and style of National Coal Development Corporation Ltd., (N.C.D. Ltd.) and vested in it the ownership of all the erstwhile collieries then owned by the Railways and the Govt. In January, 1973 the non-coking coal mines were taken over by the Govt. of India and the management of these collieries was vested in another newly formed Govt. Company known as Coal Mines Authority Ltd., (C.M.A.). In May, 1973 all these non-coking coal mines were nationalised and their ownership vested in C.M.A. Ltd.

3. It is then stated that for convenience of work the collieries under the C.M.A. were divided into three zones called Eastern Division, Central Division and Western Division and the N.C.D.C. Ltd., which functioned as a subsidiary to C.M.A. was virtually in-charge of the Central Division. The management of those collieries of N.C.D.C. which fell under the jurisdiction of Western Coalfields was transferred to the Western Division.

4. Their further case is that in November, 1975 C.M.A. Ltd. was dissolved and a new holding company known as Coal India Ltd., (C.I.L.), came into existence and along with this several subsidiary companies viz. Western Coalfields, Eastern Coalfields, Central Coalfields and Central Mine Planning & Design Institute Ltd., also came into existence. The Bharat Coking Coal Ltd., which was formed in 1972 with the nationalisation of Coking Coal Mines also became a subsidiary of the Coal India Ltd. By this the N.C.D.C. which had been identified with the Central Division lost its separate identity and came to be known as Central Coalfields Ltd. After the formation of the Coal India Ltd., the Central Division, Western Division and Eastern Division were became subsidiary companies under the Coal India Ltd., and came to be known as Western Coalfields, Central Coalfields and Eastern Coalfields Ltd.

5. The N.C.D.C. since its inception had an establishment at Calcutta which dealt with sales, purchase and Accounts Department and since the formation of Central Coalfields Ltd., it has been under the management of the Central Coalfields Ltd. Similarly the different divisions under the C.M.A. had also their separate establishments at Calcutta dealing with Sales, Purchase and Accounts. The Central Division, however, did not need any separate establishment because the old establishment of N.C.D.C. was enough for the purpose.

6. It is then alleged that the 7 workmen named in the Schedule of Reference viz. S/Sri S. B. Chatterjee, Ajoy Chatterjee, Pulak Kar, S. N. Guin, G. Balasubramaniam Subrata Banerjee and Ashru Sengupta were employees of the erstwhile N.C.D.C. (now Central Coalfields Ltd.) and were working in the Accounts Department at Calcutta along with others and the said 7 persons were transferred from Central Coalfields Ltd., to the Office of Western Coalfields Ltd., at Calcutta vide Office Order dated 21-10-75 issued by the Senior Accounts Officer, N.C.D.C. Ltd., Ranchi. It may be mentioned that the headquarter of N.C.D.C. was at Ranchi which is at present the headquarter of Central Coalfields Ltd. also. Out of 7 persons transferred to Western Coalfields Ltd., Sri Ashru Sengupta was working as Senior Accounts Clerk while the rest 6 were working as U.D.C. in the N.C.D.C. Office at Calcutta. It is submitted that in the seniority list Shri Subrata Banerjee and Pulak Kar were much junior than other staff working under N.C.D.C. and the position of the seniority list has been given on the second page of the terms of Reference. It is then alleged that in the year 1977 Sri Ashru Sengupta, Sr. Accounts Clerk on the basis of seniority and Sri S. B. Chatterjee, U.D.C., by virtue of passing Corporation Accounts Examination Part-I only were promoted as Accountant Superintendent and the remaining 5 U.D.Cs in Western Coalfields Ltd., were promoted as Sr. Accounts Clerk in the same year. But the workmen who had been working in Central Coalfields Ltd., Calcutta Office and were senior to above 7 persons were not promoted and they had to continue their

services in their existing capacity. It is also submitted that as per cadre scheme of the N.C.D.C., a U.D.C. who has not passed the Departmental Confirmatory Examination is not eligible for promotion as Sr. Accounts Clerk but Sri Pulak Kar was promoted as Sr. Accounts Clerk in Western Coalfields Ltd. Similarly a U.D.C. who has not passed the C.A.S. Part-II examination of N.C.D.C. is not eligible for promotion as Accountant but Sri S.B. Chatterjee who had not passed Part-II examination was promoted as Accountant/Supdt.

7. The allegation of the union is that these 7 persons never opted for their transfer to Western Coalfields Ltd., and their name appeared in the seniority list of Central Coalfields Ltd., till the year 1976 and similarly other two transfers were also made in the year 1975 and all these transfers were done at random without following any accepted principle such as seniority etc. which was done while transferring certain employees of N.C.D.C. to B.C. C. Ltd., in the year 1974 where option had been called for. It is submitted that in the instant case no such option was invited from any of the staff of N.C.D.C. It is further stated that there was no specific section, staff or officer to perform the duties in respect of the Western group of collieries of the N.C.D.C. which were transferred to Western Coalfields Ltd., because these collieries were under the direct control of the N.C.D.C., Calcutta Office. The union protested the first transfer that is the transfer of these 7 persons before the management but the management of Central Coalfields Ltd., made different contradictory statements. The matter of transferring these persons at random was also discussed with the management but to no effect. It is submitted that the action of the management of Central Coalfields Ltd., in transferring these persons at random without following any principle is illegal and that the action of the Western Coalfields Ltd., in promoting these clerks who are junior to the clerks posted under Central Coalfields Ltd., is also illegal. The demand of the union is that the workmen who are senior to the workmen promoted by Western Coalfields Ltd., should be promoted to higher rank by the Central Coalfields and they should be given consequential benefits.

8. Regarding Sri B. K. Kundu, the workman referred to in Term No. 2 of the Reference the case of the union is that Sri Kundu was working as a U.D.C. at Calcutta Office and on passing the Corporation Accounts Examination Part-II on 11-5-1973 become eligible for promotion as Accountant as per the existing cadre scheme and as such he was promoted as an Accountant on 12-9-73 with his posting at Ranchi. It is submitted that due to most critical condition in his family at Calcutta, Sri Kundu could not join the coveted post at Ranchi and he made representation before the management for consideration of his promotion at Calcutta but his representations were rejected in the meanwhile the cadre scheme of N.C.D.C. was revised and the post of Accountant was converted to the post of Asstt. Accounts Officer. It is submitted that the management instead of allowing the representation of Sri Kundu for posting him at Calcutta, cancelled his promotion by order dated 18-1-75 though thereafter in September, 1975 all the qualified Accountants who had passed the C.A.S. Part-II examination in 1973 were promoted as Asstt. Accounts Officer. It is also alleged that one Sri S. K. Bagchi who had passed the C.A.S. Part-II examination in 1974 and was junior to Sri Kundu was posted at Ranchi for a few months only but was brought back in the post of Accountant at Calcutta ignoring the claim of Shri Kundu. Similarly Sri P. K. Ram and Sri A. T. Bose were posted at Ranchi for a few months were brought back by the C.C.I. management and sent to Coal India Ltd.'s headquarter at Calcutta but the case of Shri Kundu for posting him at Calcutta as Accountant was not considered. It is submitted that the above action of the management amounted to discrimination and Shri Kundu was not allowed to reap the harvest of his passing Part-II examination. The management, however,

promoted him on 12-1-76 as Sr. Accounts Clerk which was much inferior promotion but Shri Kundu accepted it under protest and he again represented on 4-1-78 to the Managing Director, Central Coalfields Ltd., stating all the above facts for posting him at Calcutta but it was not exceeded to. It is submitted that from 19-1-75 till 6-5-80 during the period of 4 years 4 months Shri Kundu was never asked to join as Accountant at Calcutta or elsewhere though he should have been promoted and posted as Accountant or Asstt. Accounts Officer much earlier. He was at last promoted as Accountant only on 7-5-80 and again in 1981 he was asked to appear for interview for promotion as Asstt. Accounts Officer even after being fully qualified for the same.

9. It is submitted that the above action of the management in not promoting Shri Kundu as Accountant with effect from the date of his order of promotion is illegal, malafide and an act of discrimination as a result of which Shri Kundu has suffered a financial loss of not less than Rs. 25000. Being dissatisfied with the order of the management an industrial dispute was raised and it is prayed that Shri Kundu should have been promoted and posted at Calcutta as Accountant with effect from the date of the order.

10. The defence of the management is that as per terms of the Reference the dispute exists between the employers in relation to the management of Chairman-cum-Managing Director, Central Coalfields Ltd., and their workmen. But it is strange that in the schedule of Reference the action of Western Coalfields Ltd., in promoting certain workmen has also been challenged. It is submitted that the Central Coalfields is not a party to the dispute and so the question of promoting certain persons by the said management cannot be challenged in the present Reference.

11. On merits it is submitted that the management of non-coking coal mines were taken over by the Government of India on 31-1-73 and it was subsequently nationalised with effect from 1-5-73 and an independent company under the Company's Act was constituted in the name of Coal Mines Authority Ltd., (C.M.A.) with its head office at Calcutta. Shri J. G. Kumaramangalam was appointed as Custodian General. He was also holding the post of Chairman of N.C.D.C. with its Head Office at Ranchi and the erstwhile N.C.D.C. was an independent company which is now known as Central Coalfields Ltd., and is a subsidiary Company of Coal India Ltd. It is stated that for proper functioning of the coal industry the non-coking coal mines located at different parts of the country were divided into several divisions of the Coal Mines Authority Ltd. i.e. Western Division, Eastern Division and Central Division. The N.C.D.C. which was formed on 1-10-56 had 11 State Coaleries situated in the state of Bihar, Maharashtra, Orissa and Madhya Pradesh and all these different subsidiary companies had separate offices at Calcutta dealing with Sales and Accounts. After nationalisation the non-coking coal mines under the N.C.D.C. which were located in the State of Maharashtra and Madhya Pradesh were handed over to Western Coalfields Ltd.

12. It is stated that the 7 staff in question were the staff of N.C.D.C. (now Central Coalfields Ltd.) posted at Calcutta Office in the Sales Department and were dealing with the sales work of the collieries situated in the State of Maharashtra and Madhya Pradesh and after the transfer of the said collieries to Western Coalfields Ltd., these staff were transferred to Western Coalfields Ltd., to look after the work. Such arrangement was necessitated because they were already looking after the coal Sales, Accounts work of collieries transferred to Western Coalfields Ltd. At the time of transfer there was no question of looking into seniority or juniority nor anybody expected that the staff of Western Coalfields Ltd., will get early promotion. The seniority list of the staff transferred to Western Coalfields Ltd., was however maintained by the Central Coalfields Ltd., but after the restructuring of the coal industry the employees posted in various subsidiary companies were treated to be their employees and consequently the Central Coalfields Ltd., lost control over them. The Western Coalfields Ltd., authorities also started giving promotions to them without consulting the

Central Coalfields Ltd. It is submitted that after the formation of subsidiary companies of Coal India Ltd., the subsidiary companies started functioning independently and the Central Coalfields Ltd., had no control over the workings of the Western Coalfields Ltd. It is also stated that the transfer of these employees was necessitated because they were dealing with the Sales and Purchase of the mines which had been transferred to Western Coalfields Ltd., and this was the proper arrangement which was to be made then and there was no question of any pick and choose nor the question of considering the seniority or juniority.

13. It is also stated that on being absorbed by Western Coalfields Ltd., these employees ceased to lose their seniority or lien on the Central Coalfields Ltd., and they were promoted by Western Coalfields Ltd. The persons working in Central Coalfields Ltd., and senior to them cannot have any grudge or grievance because the promotion was given by the Western Coalfields Ltd., and not by the Central Coalfields Ltd. The other staff who have not challenged the action of the Western Coalfields Ltd., never opted in writing for being transferred to Western Coalfields Ltd., or objected to the transfer of 7 concerned workmen to Western Coalfields Ltd. It is submitted that the action in transferring the 7 workmen to Western Coalfields Ltd., is legal and justified and the union has got no case.

14. As regards Shri B. K. Kundu it is stated that he was an U.D.C. in Calcutta Office and in the year 1973 he was promoted and transferred to Ranchi Head Office, Shri Kundu, however, refused to move out of Calcutta and accordingly his promotion order was cancelled. It is stated that in those days it was the policy of the company that a U.D.C. passing the Accounts Examination was required to be posted where the vacancy occurred and accordingly those who had passed with Shri Kundu from Calcutta Office having agreed to move out of Calcutta were transferred to Ranchi on promotion as Accountant and if and when any of them on compassionate ground has been transferred back to Calcutta, the post was also transferred with him in as much as the post at Ranchi was not filled up. It is stated that when vacancy arose at Calcutta the case of Shri Kundu was considered and he has been promoted and posted at Calcutta Office. It is submitted that Shri Kundu cannot claim promotion retrospectively faster he refused to move out and there was no post available at Calcutta. It is submitted that the demand of Shri Kundu is speculative and he is not entitled to any relief.

15. On the above grounds it is prayed that the reference be decided in favour of the management.

16. It, however, appears that the Dy. Controller of Accounts of Western Coalfields Ltd., Calcutta has also filed a written statement and it is stated that they are not party to the dispute and that there is no dispute between them and the workmen and hence they are not bound to file any written statement. It is further stated that the Dy. Controller of Accounts cannot be questioned through a Reference of this nature as the Western Coalfields Ltd., has not been made a party. It will appear that copy of the terms of Reference had been forwarded by the Ministry to the Controller of Accounts, Western Coalfields Ltd., also and hence a notice had been issued to the Western Coalfields Ltd., for necessary action.

17. The points for consideration are as follows:

Whether the action of the management of Central Coalfields., in transferring the 7 workmen mentioned in the schedule at random to Coal Sales Office, Western Coalfields Ltd., Calcutta on 21-10-75 and of the Western Coalfields Ltd., in promoting S/Sri Ajoy Chatterjee, Pulak Kar, S. N. Guin, G. Balasubramaniam, Subrata Banerjee as Sr. Accounts Clerk and Sri S. B. Chatterjee and Sri Ashru Senapati as Superintendent over-looking the seniority of the clerks in the Accounts Office of the Central Coalfields Ltd., Calcutta whose names are furnished in the Annexure is legal, proper and justified. If not, to what relief are the concerned workmen entitled

(2) Whether the refusal by the management of Central Coalfields Ltd., to promote and post Shri B. K. Kundu, U.D.C. Accounts Office, Central Coalfields Ltd., Calcutta as Superintendent/Accountant in the

Office when vacancy arose subsequent to his refusal to accept promotion and posting as Superintendent Accountant at Ranchi in the year 1973 is legal, proper and justified in the circumstances? If not, to what relief is the concerned workman entitled.

18. Before dealing with the points in issue, it will be proper to mention certain facts which are relevant for the purpose of deciding the issues as also because they are not disputed. It will appear that in the month of October, 1956 the Central Government constituted a Corporation by the name of National Coal Development Corporation (N.C.D.C.) under which the State collieries 11 in number were brought under its control. Subsequently new mines were also developed by the said Corporation known as N.C.D.C.

19. In 1972 the coking coal mines were nationalised and the Government floated a company known as Bharat Coking Coal Ltd., which took over the coking coal mines of the country. Thereafter in the year 1973 all the non-coking coal mines were taken over by the Govt. of India and the management of these collieries was vested in another newly formed Government Company called Coal Mines Authority Ltd.. The non-coking coal mines were, however, nationalised in May 1973 and their ownership vested in the Coal Mines Authority Ltd. For convenience of work the collieries under the C.M.A. Ltd., were divided into three zones and they were called Western Division, Central Division and Eastern Division. The mines of National Coal Development Corporation Ltd., (N.C.D.C.) which fell under the jurisdiction of the Western Coalfields, were transferred to the Western Division. The mines of N.C.D.C. were located in the States of Madhya Pradesh, Maharashtra, Orissa and Bihar coalfields. The Eastern Division consisted of West Bengal collieries including Mugma in Dhanbad District and some collieries of Santhal Pargana. Central Division consisted of collieries falling in the District of Giridih, Hazaribagh, Ranchi and Palamou. It is in evidence that after the formation of C.M.A. Ltd., N.C.D.C. continued to exist as an independent company but the management of Sudamdih and Mondih Projects of N.C.D.C. were transferred to Bharat Coking Coal Ltd. in 1975 as they were coking coal mines. Western Division consisted of the mines falling in the District of Madhya Pradesh as well as in Maharashtra. It is also not in dispute that the N.C.D.C. had its office in Calcutta dealing with Sales, Purchase and Accounts. The C.M.A. Ltd., had also its headquarters at Calcutta. The different divisions of Coal Mines Authority Ltd., viz. Eastern Division and Western Division also established their offices in Calcutta dealing with Sales, Purchase and Accounts. The Central Division, however, did not establish any office at Calcutta for the said purpose as this work was being looked after by N.C.D.C. which has already its office dealing with accounts in Calcutta.

20. In 1975 the C.M.A. Ltd., was dissolved and a new holding Company named Coal India Ltd., came into existence. Along with this several subsidiary companies viz. Western Coalfields, Eastern Coalfields, Central Coalfields and Central Mine Planning & Design Institute Ltd., also came into existence and were formed as Companies The Bharat Coking Coal Ltd., also became a subsidiary of the Coal India Ltd. The N.C.D.C. Ltd. which had been identified with the Central Division of Coal Mines Authority Ltd., lost its separate identity and came to be known as Central Coalfields Ltd. This will be born out from the letter dated 27-9-75 (Ext.M-35) issued by the Govt. of India, Ministry of Energy as also Ext.M-34. The 7 workmen mentioned in the schedule of Reference were working as U.D.C. or Sr.Accounts Clerk in the Office of the N.C.D.C. at Calcutta during the relevant period i.e. on 21-10-75.

21. After enumerating the above facts I will now take up the points for discussion and decision of the issues in question one by one.

22. Issue No. (1)—It is admitted by WW-1 one of the concerned workmen in para 10 of his cross-examination that each division was managed by a separate Managing Director and promotion to the staff was given division-wise. One division could not give promotion to the staff of another division. Though all the companies known as Western Coalfields, Eastern Coalfields and Central Coalfields were separate Com-

panies but they were subsidiaries of the Coal India Ltd. They had separate working and they worked independently and one has got no concern with the other. It is also not denied that there are different rules of promotion in different divisions and promotions are given according to the vacancies. All these facts are admitted by the workmen witnesses as also by the management witnesses.

23. It is admitted that the collieries of Madhya Pradesh and Maharashtra which were originally managed by N.C.D.C. after nationalisation and after the formation of C.M.A. Ltd., were transferred to the Western Division which after the formation of C.M.A. came to be known as Western Coalfields Ltd. It appears that by October dated 21-10-75 (Exts. W-1, M-7 & M-3) the services of the 7 workmen were placed at the disposal of Coal Sales Accounts Office of the Western Division situated at Calcutta. The relevant order is as follows :—

"The services of the following persons are placed at the disposal of the Coal Sales Accounts Office at Western Division at Calcutta with effect from 1-11-75."

Subsequently there were 2 other transfers dated 14-11-75 and 19-11-75 from C.C.L. to W.C.L. but they were not materialised. The contention of the workmen is that these transfers were made at random which is unjustified. It will, however, appear that the lien of these 7 workmen was retained by the C.C.L. Out of these 7 persons, Sri Ajoy Chatterjee, Sri S. N. Guin and Sri G. Balasubramaniam got promotion by the C.C.L. according to their seniority. The bone of contention of the workmen, however is that as per annexure given on page 2 of the terms of Reference Sri Subrata Banerjee and Sri Pulak Kar were much junior to the other clerks posted under the C.C.L. but they were given promotion by the W.C.L. where they were working. The seniority position would show that Sri Subrata Banerjee was in Sl. No. 16 while Sri Pulak Kar was in Sl No. 26 and thus according to the union Sri Subrata Banerjee superseded his 15 seniors while Shri Pulak Kar superseded his 24 seniors. The demand of the workmen, therefore, is that all those persons who were senior to Sri Subrata Banerjee and Sri Pulak Kar should have been promoted by the C.C.L., the moment those persons were promoted by the W.C.L. But it may be stated at this very stage that it is admitted that there were different rules of promotion in different subsidiary companies under the Coal India Ltd. The contention of the workmen, however, is that these transfers were made at random and other workmen were not consulted nor any option was taken from them.

24. The question, therefore, is as to whether these transfers were at random or not. In this regard certain documents as also oral evidence are relevant. It will appear from Ext. M-39 and its enclosure that the Western Division wanted to take on the work of Sales and Purchase at Calcutta regarding their mines immediately from the N.C.D.C. under their control and from the Annexure Ext. M-39 it will appear that there was some discussion in which it was found that 10 or 12 staff were doing the accounts work of the mines situated in Maharashtra and Madhya Pradesh and which had been transferred to W.C.L. Therefore, they requested that the staff dealing with the work of the mines transferred to the Western Division should be transferred to them. The letter dated 22nd/23rd September 75 Ext. M-39 written by the Managing Director, C.M.A. Ltd., to Mr. Wadhwa, Managing Director, Central Division, Ranchi would show that the question of taking over of accounts for the N.C.D.C. collieries operating in the Western Division was considered and the Western Division wanted that the accounts should be properly segregated so that they can look after their own jobs as early as possible. In pursuance of the said discussion and decision these 7 clerks were transferred to the Western Division. Ext. M-23 is another letter from the C.M.A. Ltd., to the Chief Accounts Officer, N.C.D.C. Ranchi expressing thanks for the action taken by the N.C.D.C. in issuing the transfer orders for one Mr. N. N. Mukherjee, Accounts Officer and 7 staff to the Western Division. They also required 2 more staff. The definite case of the management is that as these staff were looking after the accounts of the mines of the Western Division and so their services were placed at the disposal of the Western Division and there was no question of any pick and choose at that time. In this regard the oral evidence is also material. MW-1 is Sri Ram Gopal Singh working as Dy. Chief Personnel Manager (Administration) C.C.I., Ranchi in paragraph 13 of his deposition has stated that the

scheme of promotion of employees of Coal India and its subsidiaries are different from one another as also different from N.C.D.C. This fact has not been denied and is rather admitted. In paragraph 14 he has stated that after nationalisation some mines of N.C.D.C. were transferred to Western Division along with the staff and officers dealing with those mines. The staff dealing with Sales and Accounts of those mines at Calcutta Office of N.C.D.C. were also transferred to Western Division along with their work and similarly the staff connected with Sudamdih and Monidih projects were also transferred to Bharat Coking Coal Ltd., when those 2 mines were transferred to them. MW-2 is Sri N. N. Mukherjee who was transferred to Western Division along with these 7 staff. In paragraph 3 he has stated that the major part of work done by these 7 employees were for Western Division and the work pertaining to Western Division went with them. It is further stated by him that from April '75 to October '75 accounting job pertaining to Western Division collieries was done by him with the help of these 7 Assistants. WW-1 is Sri Shymal Kumar Pal a staff of N.C.D.C. He has stated that this transfer was at random but in paragraph 7 of his deposition he has admitted that the sales realisation work is maintained consumer-wise and the consumers were Railways and Power Houses. They had also got separate customer number and for each Power House there is a separate account. It is further admitted by him that N.C.D.C. mines in Madhya Pradesh supplied coal to Western Railways and those mines now transferred to W.C.L. are supplying coal to Power House of Madhya Pradesh State Electricity Board and Maharashtra State Electricity Board. It is also admitted by him that coal is supplied to Railways and Power Houses from nearest collieries. He has pleaded ignorance by saying that he cannot say if these 7 employees were dealing with the coal supplied to Western Railways and Power Houses of Madhya Pradesh and Maharashtra from the mines of Western Division. In paragraph 10 it is admitted by him that at the time of this transfer nobody could forecast whether the persons transferred to W.C.L., or other divisions from N.C.D.C. would get promotion earlier or the staff continuing in C.C.L. will get promotion first. As stated earlier it is admitted by him that each division was managed by a separate Managing Director and promotion to the staff was given division-wise and that one division could not give promotion to the staff of another division. Thus from all the above evidence it is clear that the 7 staff in question were transferred to the Western Division along with their work. As admittedly WW-1 at the time of transfer nobody knew whether that person who are being transferred to Western Coalfields will get their promotion earlier. Further the N.C.D.C. or the C.C.L. were not responsible if the staff transferred to W.C.L. got their promotion earlier. It is admitted that there are different rules of promotion in different divisions and they are not similar. As for instance, in C.C.L. a U.D.C. can be promoted to the post of Accountant only if he passes both Part-I & Part-II C.A.S. Examination, but in Western Coalfields a U.D.C. by passing Part-I examination only is eligible for promotion to the said post of Accountant and it is also admitted that each division is independent from another.

25. In such circumstances, it is too much for the union to claim that because some juniors were promoted by the Western Coalfields the persons senior to them working in Central Coalfields Ltd., should also get promotion no matter whether there is any vacancy or not. It is admitted by the Workmen witnesses No. 1 & 2 that promotions are given only when there is vacancy for the same. I fail to understand as to how in this Reference the action of the Western Coalfields can be challenged and how the Central Coalfields can be held responsible for any promotion given by the Western Coalfields. As stated earlier the union never raised any dispute with the Western Coalfields nor the Western Coalfields is a party to this Reference. The action of Central Coalfields has only been challenged. Further as admitted by WW-1 at the time of transfer nobody could forecast as to in which division the promotion was to take earlier. In such circumstances, I do not think there was any necessity for the management to ask for option from any of the employees. Rather it will appear that even the persons who were transferred to W.C.L. were then reluctant to go there but thereafter they took their chance and if they got some reward for this transfer, the staff working in C.C.L. should have no grudge for it.

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The union at that time also did not raise any objection regarding transfer of these 7 particular staff. Naturally they did not raise any objection as they could not forecast the future then.

26. It will also appear that several other employees of N.C.D.C. were transferred to different divisions according to the mines which were transferred to different divisions but none of them raised any dispute. Subsequently, however, the Central Division issued a letter to the employees working in W.C.L., stating that those who had not been promoted by then had the option to come back to C.C.L., and this option was asked for because they have not got any promotion there. But there was no question of asking any option from the staff who had already got promotion in the W.C.L. The position, however, would have been otherwise if any junior would have been given promotion by the C.C.L. itself but that is not the case here.

27. It was, however, urged on behalf of the union that the different division are subsidiaries of the Coal India Ltd., and so there should be one uniform rules or norms for promotion. This is no doubt a good idea but the fact is not so. Each division is independent and has got separate rules and norms for promotion and this Tribunal cannot challenge them. If any person by passing only Part-I C.A.S. examination was promoted by the W.C.L. according to their rules, the C.C.L. is not to be blamed for it. It is also in evidence of the management that while making promotion the W.C.L. did not consult the C.C.L.

28. Much stress has been put on behalf of the union that upto 1976 the names of these 7 workmen appeared in the gradation list of the C.C.L. but that is immaterial. The said seniority list was material only for promotion to be given by the C.C.L. and not by other divisions. The persons who got promotion by the W.C.L. in 1977 lost their on the C.C.L. and they became permanent employee of the W.C.L. It will also appear that by Ext. W-5 the C.C.L. informed to the Secretary of the union that there transfers were necessitated due to transfer of coal sales account work of old N.C.D.C. mines of Western Division to Western Coalfields.

29. Thus from all the above facts it is clear that these transfers were not at random as alleged nor the action of W.C.L. in promoting some staff can be challenged before Tribunal in view of the fact that no dispute was ever raised against the W.C.L. nor the W.C.C.L. was made a party to this Reference nor the C.C.L. was in any way responsible for the act done by the W.C.L. I accordingly hold that the action of the management of C.C.L. in transferring the 7 staff to W.C.C.L. is justified and the action of W.C.L. in promoting them cannot be challenged before this Tribunal in this Reference and so their action also cannot be held to be unjustified. This issue is thus decided in favour of the management.

30. Before I conclude this issue I would also like to mention one fact. The present dispute has been raised only by the staff working in Calcutta Office of Central Coalfields Ltd. The headquarter of Central Coalfields is at Ranchi. Ext. M-15 is the list of trade union which would show that several unions are functioning in this division. There are several staff who are working at Ranchi headquarter as also at different collieries of the C.C.L. and they are also senior to the workmen promoted by W.C.L. None of them have raised any dispute against the promotion made by the W.C.L. Further the dispute was raised only when some of the staff got promotion by W.C.L. though they had been transferred as early as in 1975. This clearly shows the motive of the staff posted at Calcutta in raising the dispute for which they have no claim. Any decision in favour of the workmen would invite a flood gate of litigation and all the clerks who claim to be senior and posted at different collieries and headquarters would come and claim that all of them should be promoted by the C.C.L. because some juniors were promoted by the W.C.L. though the C.C.L. was not responsible for the same. This will further create industrial unrest. Moreover, as held already the union has not no merit at all hence as stated above the issue is decided in favour of the management.

31. Issue No. (2)—Ext. W-2 is the cadre scheme of N.C.D.C. in Accounts Section. This has also been marked as Ext. M-4. From this scheme it will appear that the categorisation in the scheme is as follows :—

Superintendent
Asstt. Superintendent
Senior A/Cs Clerks
Upper Division Clerks
Lower Division Clerks

The L.D.C. is the lowest cadre. Promotion from lower rank to higher rank is made in case of vacancy and by the Departmental Promotions Committee (D.P.C.). The post of Asstt. Superintendent, however, was abolished after coming into force of N.C.W. A-I. As per cadre scheme of the N.C.D.C. or the Central Coalfields now it is admitted that a U.D.C. Clerk who passes Part-I & Part-II C.A.S examination are eligible for promotion to the post of Superintendent or Accountant. The post of Superintendent or Accountant is equivalent. Shri B. N. Kundu passed the Part-II examination of C.A.S. on 11-5-73 along with others vide Ext. W-8. Ext. W-9 is the Office Order dated 12-9-73 which shows that until further orders Shri B. N. Kundu, U.D.C. who had passed the Corporation Accounts Examination February '73 was appointed to officiate as Superintendent with effect from the date he actually assumed his higher post at his new place of posting. He was posted in Accounts Office at Ranchi. It is admitted by Shri Kundu in his evidence that promotions are made in case of vacancy only even if a candidate becomes eligible for such promotion. It is also in evidence that most of the post of Superintendent and Accountant are available in the collieries or at the headquarter station at Ranchi. The promotion order clearly indicate that his promotion was to take effect from the date he assumed charge at his new place of posting that is at Ranchi. Shri Kundu, however did not join at Ranchi but he filed a representation Ext. W-10 dated 11-3-74 before the Chief Accounts Officer, Ranchi stating that unfortunately he could not join the new post at Ranchi office due to unavoidable circumstances mentioned in his representation. The reasons were that he was the only earning member of his family and his father and younger brothers were out of employment since January '71 due to closure of the Firm where they were working. His youngest brother was suffering from mental disease and was an indoor patient in Calcutta. His mother had undergone certain surgical operations and his 2 younger sisters were college and school going students and the eldest had already attained marriageable age. He, therefore, prayed that he should be allowed to join as Superintendent at Calcutta Office. The management by Ext. W-11 dated 27-3-73 informed Shri Kundu that it would not be possible to return him at Calcutta on promotion. In spite of refusal of the representation Shri Kundu made another representation Ext. W-12 dated 6-5-74 to the Director Finance giving the same reasons. This representation was also rejected by a letter Ext. W-12/1 dated 2-7-74. In spite of it Shri Kundu did not care to join at Ranchi. It may be mentioned that the order of promotion was to become effective only when Shri Kundu joined at Ranchi but he did not do so. He should have deemed to have been promoted only when he should have joined at Ranchi but he failed to do so. Thereafter, the management by Office Order dated 18-1-75 Ext. W-15 cancelled the promotion order of Shri Kundu along with others who also failed to make over charge within 14 days from issue of the Office Order dated 24-12-74 and did not join at the new place of posting. Thus the promotion of Shri Kundu was cancelled and he continued to work as U.D.C.

32. The term of Reference would show that the demand of the union is that the concerned workman should have been promoted and posted at Calcutta when vacancy arose subsequent to the refusal by Shri Kundu to accept promotion and posting at Ranchi. The definite case of the management is that thereafter no vacancy of Accountant or Superintendent arose at Calcutta and so there was no question of promoting him and posting him in Calcutta. The promotion to Shri Kundu was given as Accountant by letter Ext. W-22 dated 7-5-80 only when such vacancy arose at Calcutta as contended by the management. No document has been filed on behalf of the union to show that any vacancy arose in Calcutta after the promotion order of Shri Kundu was cancelled. The union

however has filed certain instances to show that some persons were posted at Calcutta as Superintendent or Accountant in between 1975 and 1980 but I shall discuss it later on.

33. It may, however, be stated that subsequently cadre scheme of the N.C.D.C. was amended and the post of Accountant was abolished and it was designated as Asstt. Accounts Officer. The said amended order is Ext. W-13 dated 13-9-74 which has been marked Ext. M-19 by the management. It was communicated to all concerned and in pursuance of it certain Accountants were promoted admittedly as Asstt. Accounts Officers but all of them were posted outside Calcutta. It is in evidence of the management that several other persons who on promotion were posted at Calcutta and who refused to move out of Calcutta forgo their promotion and continued to stay in Calcutta in their original post. Ext. M-44 has been filed to prove the same fact.

34. It will, however, appear that Shri Kundu was promoted to the next higher grade from U.D.C. that is to the post of Sr. Accounts Clerk in normal course when vacancy occurred in Calcutta vide Ext. W-18 dated 12-1-76. Shri Kundu thereafter made another representation Ext. W-19 dated 14-3-76 to the Administration, Central Coalfields Ltd., stating that as per said promotion he has joined as Sr. Accounts Clerk but as he had passed Part-II examination he should be promoted as Accountant and as per new cadre scheme as Asstt. Accounts Officer immediately. He filed another representation Ext. W-20 dated 4-1-78 to the Chairman-cum-Managing Director, C.C.L. The matter was passed all through and finally Shri Kundu got promotion in 1980 as stated earlier. The case of Shri Kundu, however, is that one Sri Bagchi who had been posted at Ranchi on his promotion as Accountant was junior to him but he was again brought back to Calcutta as Accountant by the management but Shri Kundu was not promoted. The case of the management, however, is that Shri Bagchi was brought to Calcutta with his post as the vacancy in Ranchi was not filled up. The definite evidence of the management is that there was no post of Accountant available at Calcutta.

35. Ext. W-17 is the minutes of the meeting held between the union in question and the management on 31-8-78 regarding the case of Shri Kundu. Both sides placed their claim and it was agreed between the union and the management that the case of Shri Kundu may be considered by the next D.P.C. provided there is a vacancy and D.P.C. recommends his case. Thus it will appear that the matter was set at rest by this agreement and Shri Kundu was to get promotion only when there was a vacancy at Calcutta and his case was considered by the D.P.C. The D.P.C. was held in 1980 and Shri Kundu got his promotion all right. Shri Kundu in his evidence has admitted that he had made over his case to the union and all the papers were made over by him to the union and he had authorised the union to negotiate his case with the management and settle it (para 15). The union thus settled up the matter of Shri Kundu and thereafter there was no occasion for Shri Kundu to reek up the issue again. In the written statement it has been contended by the union at page 11 that Shri P.K. Ram and Shri A.T. Bose who were much junior to Shri Kundu were posted at Ranchi but they were subsequently brought to Calcutta Headquarter. But this contention of the union is also not correct. It will appear from the record that none of these persons were brought to C.C.L. Office at Calcutta. MW-1 has stated that Shri P. K. Ram was attached to Transport and Shipping Section of C.C.L. and this section was later on transferred to Coal India and Shri Ram went there along with the post. This is also born out from Ext. M-8 dated 20-11-75. The orders reads that Shri P. K. Ram, Superintendent of Accounts Dept., C.C.L. Ranchi is hereby transferred to the Office of the Manager, Shipping and Transport, C.C.L. Calcutta. Thus it will appear that Shri Ram was transferred to Coal India along with the post but he was not posted in the C.C.L. Office at Calcutta. Thus his transfer does not indicate that there was any such vacancy in C.C.L.

36. Similarly MW-1 has stated that Shri A. T. Bose who was acting as Superintendent at Ranchi had applied to Coal India directly and the order of transfer was made by the Coal India direct and that Shri Bose was never brought to Calcutta in the C.C.L. The Office Order of transfer of Shri

Bose is Ext. M-9 dated 20-12-76 and it was issued by the Coal India Ltd., which shows that Shri Bose was posted in the Coal India Ltd., and not in the C.C.L. Office. Thus there is no document to show that any post of Accountant or Superintendent existed at Calcutta before 1980 and the case of Shri Kundu was not considered. Further all the above postings would show that the persons named above had been transferred to the same grade of Accountant or Superintendent. The promotion order of Shri Kundu had already been cancelled and so he was not in the grade of Accountant at the time these transfers were made. The Coal India or other subsidiaries wanted Accountant or Superintendent and so the question of forwarding the name of Shri Kundu who was not in that grade could not arise at all. During evidence it has been asserted by Shri Kundu that he should have been promoted as Asstt. Accounts Officer as per new scheme and certain Office Orders have been filed to show that certain Accounts were promoted as Asstt. Accounts Officer. The terms of Reference, however, do not state about promotion as Asstt. Accounts Officer. Further it will appear from the Office Order filed in the case that only the Accountants were promoted as Asstt. Accounts Officer as per new scheme. Shri Kundu was not an Accountant or Superintendent at the time of such promotions were made and so the question of promoting him as Asstt. Accounts Officer did not arise at all. In fact he has been promoted as Asstt. Accounts Officer subsequently. Shri Kundu by his own fault did not join at Ranchi and did not avail the opportunity of his promotion and so naturally he had to suffer and the management had no alternative but to cancel his promotion order as he refused to join at Ranchi. Further from the evidence it is clear that no vacancy of Accountant or Superintendent occurred at Calcutta subsequent to the refusal to accept the promotion by Shri Kundu till 1980 when such vacancy arose and in that case the refusal by the management to post Shri Kundu at Calcutta does not arise at all nor the action of the management in any way can be held to be illegal, improper or even unjustified.

37. At this stage before concluding it may be mentioned that a large number of other documents have also been filed on behalf of both the parties but they were neither referred to during the course of argument nor they are relevant and hence it is needless to discuss them. The documents relied upon by the parties has already been discussed by me.

38. Considering the entire evidence and facts and circumstances of the case, I hold that the action of the management so far as Issue No. 2 is concerned cannot be said to be illegal, improper or unjustified in any way. In such circumstances the concerned workman is not entitled to any relief.

39. The award is passed accordingly.

J. N. SINGH, Presiding Officer.

[No. L-19011/1/80-D-IV(B)]

New Delhi, the 4th January, 1984

S.O. 147.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 15th December, 1983.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL :
CALCUTTA**

REFERENCE NO. 1 OF 1978

And

REFERENCE NO. 8 OF 1979

Parties : Employers in relation to the management of Food Corporation of India

And

Their Workmen.

(In both the References)

Present:

Mr. Justice M. P. Singh . . Presiding Officer.

Appearances:

On behalf of Employers Mr. Ajit Roy Mukherjee, Counsel.

On behalf of Workmen Mr D. L. Sen Gupta, Advocate, with
Mr M. S. Dutta, Advocate

State : West Bengal

Industry : Food

AWARD

In Reference No. 1 of 1978 involving 19 handling mazdoors of the FCI, Calcutta, the Government of India in the Ministry of Labour by Order No. L-42012(7)/76-D. II (B) dated 5 August 1977 has made the reference in the following terms:

"Whether the action of the management of the Food Corporation of India, Calcutta, in dismissing the undermentioned 19 workmen from service is justified? If not, to what relief are the said workmen entitled."

Sl. No.	Name	Designation	Depot to which attached.
1.	Sri Ramdeo Rai	Sardar	Cossipore
2.	Sri Krishna Ch. Nayak	H/Labour	-do-
3.	Sri Ramdas Rai	Ancillary	-do-
4.	Sri Tulshi Singh	Sardar	-do-
5.	Sri Mahendra Singh	Ancillary	-do-
6.	Sri Ramadhin Pr. Shaw	Sardar	-do-
7.	Sri Bhaghirath Dey	Mondal	-do-
8.	Sri Jatadhari Bhol	Sardar	-do-
9.	Sri Manik Lal Das	Ancillary	-do-
10.	Sri Rabi Ray	Ancillary	-do-
11.	Sri Karu Paswan	Sardar	-do-
12.	Sri Shree Mahato	Sardar	-do-
13.	Sri Kamu Rai	Sardar	-do-
14.	Sri Hari Das	H/Labour	Lake
15.	Sri Panchanan SarJar	H/Labour	-do-
16.	Sri Rabin Halder	H/Labour	-do-
17.	Sri Baldeo Paswan	Sardar	Nandibagan
18.	Sri Singheswar Ram	Mondal	-do-
19.	Sri Babaji Ch. Muduli	H/Labour	Cossipore"

In the next Reference No. 8 of 1979 in respect of 27 handling mazdoors including the aforesaid 19 the reference has been under Order No. L-42011 (3)/78-D. II(B) dated 2nd February 1979 in the following terms:

"Whether the action of the management of the Food Corporation of India, Calcutta in re-appointing the workers whose names are given below as fresh entrants instead of treating them as reinstated in service is justified? If not, to what relief are these workers entitled?"

		Cossipore Depot
1.	Sri Ramdeo Rai	Sardar
2.	Sri Krishna Ch. Nayak	H/Labour
3.	Sri Ramdas Rai	Ancillary
4.	Sri Tulshi Singh	Sardar
5.	Sri Mahendra Singh	Ancillary
6.	Sri Ramadhin Pr. Shaw	Sardar
7.	Sri Bhagirath Das	Mondal
8.	Sri Jatadhari Bhol	Sardar
9.	Sri Manik Lal Das	Ancillary
10.	Sri Rabi Ray	Ancillary
11.	Sri Karu Paswan	Sardar
12.	Sri Shree Mahato	Sardar
13.	Sri Kamu Rai	Sardar
14.	Sri Jaldhari Yadab	Sardar
15.	Sri Babaji Chandra Muduli	H/Labour

16. Sri Mahabhis	17/1/1979	Lake Depot
17. Sri Ramchandra Sengupta	17/1/1979	"
18. Sri Subodh Kumar	17/1/1979	"
19. Sri Subodh Kumar	17/1/1979	Nandagram Depot
20. Sri Subodh Kumar	17/1/1979	"
21. Sri Raju Sengupta	17/1/1979	Sandilmar Depot
22. Sri Ramchandra Sengupta	17/1/1979	Lake Depot
23. Sri Gauri Choudhary	17/1/1979	L.K.P. Depot
24. Sri Bala Mondal	17/1/1979	Boobyang Depot
25. Sri Subodh Kumar	17/1/1979	"
26. Sri Mahabhis	17/1/1979	"
27. Sri Ramchandra	17/1/1979	"

Both the conferences have been held at the same place.

2. Most of the workers were dismissed by the management of the FCI, Calcutta in 1975 and some of them in 1976. The reason for dismissal was that they had participated in an illegal strike which continued from 27 January, 1975 to 9 March, 1975. All the 27 workmen were re-appointed on different dates prior to 1979. In the first reference of 1978 the question whether the dismissal is justified. In the other the question is whether the re-appointment is justified. The Union have challenged both. Domestic enquiry had been held in respect of 19 persons and no enquiry had been held in respect of the remaining eight. All the enquiry proceedings were set aside by this Tribunal as being vitiated by principles of natural justice by order dated 11 August, 1983. None of the parties has adduced any evidence before this Tribunal after the setting aside of the enquiry proceedings.

3. Sri D. L. Sen Gupta appearing for the Union contended that if the management has not chosen to adduce any evidence in this case of domestic enquiry, then the concerned workmen should be reinstated with back wages and an award in their favour should be passed in accordance with the principles laid down in Cooper Engineering Ltd. v. P. P. Munane, 1975 II L.J. 579 (SC)-1975 Lab. IC 1441. He further referred to the decision in Hindustan Tin Works Ltd. v. Its Employees, 1978 II L.J. 474 (SC) in which it was observed that if the workmen are ready to work but are kept away therefrom on account of the invalid act of the employer, there is no justification for not awarding them full back wages which were legitimately due to them. He also submitted that even if the strike was illegal, there could be no dismissal because there is nothing to show that it was unjustified. Learned Counsel also argued that there were thousands of strikers and there was no reason as to why the management picked out only the concerned workmen out of the thousands of workmen and punished them. He submitted that there was no overt act and for mere joining of illegal strike the concerned workmen cannot be punished. He, however, said that joint strike was not denied by the Union. On the other hand, Sri Roy Mukherjee argued that the strike was illegal and unjustified. He pointed out that the strike had been declared illegal in terms of the notification of the Government of India No 4205/17/74-IRI dated 3 January, 1974 issued under the Defence of India Act, 1971 and that the concerned workmen along with others admittedly participated in the strike and continued it and refused to resume duties in defiance of notices and directives issued to them to resume their respective duties. He also pointed out that 4 of the workmen had been arrested and detained under MISA and had been released from detention after the strike was over. He said that the charge-sheeted workmen had been proceeded against because they had taken active part in organising and continuing the strike. He emphasised that the concerned workmen had not denied participation in the illegal strike in the written statement or anywhere, that they had in fact admitted it and in that view of the matter no evidence was necessary to be produced. Alternatively he argued that even after the domestic enquiry was sent aside, the documents and statements of the concerned workmen filed by the management before this Tribunal in the course of hearing of the preliminary objection shall be evidence in the case because it is one compact proceeding Sri D. L. Sen

Gupta vehemently urged that the management was not competent to refer to any document after the domestic enquiry was held to be unfair and improper. He also submitted that admission must be taken as a whole and not in part. Both sides cited decisions in support of their contention but in the view which I am going to express it is not necessary to discuss them. It is also not necessary to deal with the respective contentions aforesaid. This case, I think, can be disposed of by applying the doctrine of estoppel or on the basis of fresh agreements entered into by the parties.

— Admittedly all the concerned workmen of the two references were reappointed by the management on various dates prior to 2nd February 1979. They all accepted the fresh appointments after receiving appointment letters addressed to them. They also acted upon the fresh appointments. It is not disputed that after their re-appointments they also received wages and other service benefits thereafter. In other words, they acted upon the fresh appointments. According to the management, such re-appointments were given in consideration of appeals for mercy made by the workmen and in consideration of assurances given by them that they would not repeat the misconduct for which they had been punished. It is an admitted fact that the concerned workmen started working under the fresh appointments. Sri D. L. Sen Gupta has vehemently argued that fresh appointments had been accepted by the workers because of false representations made by the management and also because the Corporation took advantage of the illiteracy of the workmen. He denied that there was any settlement between the management and the concerned workmen. He submitted that signatories of the illiterate dismissed participants of the 1975 general strike were procured under duress and without explaining to them the contents of the papers. Suffice to say that the union has not adduced any evidence in support of these allegations. I have already pointed out that the concerned workmen did not press them for reinstatement or for back-wages. It is hard to believe that the concerned workmen were duped or that they would not know that they were getting fresh appointments. The assertions made by the union before this Tribunal have not been proved by any evidence whatsoever and accordingly I hold that the concerned workmen accepted the fresh appointments with full knowledge of the nature of appointment. It means that there were fresh agreement between the parties as regards the appointment. The question is whether in such a situation the union can be allowed to challenge the dismissal or their reappointments. The union now wants that the reappointment should be cancelled and the dismissal also should be set aside and in stead the concerned workmen should be reinstated with back wages. I am of opinion that this prayer can not be allowed. The doctrine of estoppel will apply. They also cannot be allowed to break the fresh contract to which they are parties. They took advantage of getting fresh appointments and of benefits thereunder after dismissal and thus led the management to believe that they would not challenge the dismissal. This, they cannot be permitted to do. Sri D. L. Sen Gupta contends that doctrine of estoppel does not apply to industrial cases. I do not agree with this contention. Law should not permit an unjust departure by a party from an assumption of fact which he has caused another to adopt or accept for the purpose of their legal relation. The concerned workmen, therefore, must be held to be disentitled to depart from what they had accepted with their eyes open. This Tribunal will compel them to adhere to the assumption upon which they acted. A man must honour promise. The acceptance of fresh appointment created legal relations between the parties and same was in fact acted upon. In such cases, therefore, justice demands that the doctrine of estoppel should be applied and I apply the same to this case. Even if no estoppel, they cannot run away from the fresh contract of employment. Such a situation did not arise in the case of Cooper Engineering Ltd (supra). So that case has no application to the facts of the instant case. The result will be that neither their dismissal can be challenged nor the fresh appointments. This disposes of both the references.

5. In conclusion my award in Reference No. 1 of 1978 is that the action of the management of the Food Corporation of India, Calcutta in dismissing the concerned 19 workmen from service is not challengeable and is, therefore, justified. Similarly my award in Reference No. 8 of 1979 is that the action of the management of the FCI, Calcutta in reappointing the 27 workmen including the former as fresh entrants instead of treating them as reinstated in service is unchallengeable and is justified. It follows that the concerned workmen in either reference are not entitled to any relief.

Calcutta,
the 7th December, 1983

M. P. SINGH, Presiding Officer
[No. L-42012/7/76/D-IV(B)]
A. K. SAHA MANDAL, Desk Officer

New Delhi, the 3rd January, 1984

S.O. 148.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Bombay in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen which was received by the Central Government on the 16th December, 1983.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, BOMBAY**

PRESENT

Shri M.A. Deshpande,
Presiding Officer

REFERENCE NO. CGIT-2/32 of 1982

PARTIES

**EMPLOYER IN RELATION TO THE MANAGEMENT OF
STATE BANK OF INDIA, NAGPUR**

AND

THEIR WORKMEN

APPEARANCES

For the Employers

Shri A.A. Khan,
Officer-in-Charge,
Disciplinary Proceedings Cell
S.B.I., Nagpur.

For the workmen

Shri S.P. Chaudhari,
Vice-President,
State Bank Workers'
Organisation.

Industry : Banking

State : Maharashtra

Bombay, the 31st October, 1983

AWARD

(Dictated in the open Court)

By their Order No. L-12012 (306)/81-D. II (A) dated 20-7-1982 the following dispute has been referred for adjudication under Section 10(1) (d) of the Industrial Disputes Act, 1947:—

“Whether the action of the management of State Bank of India, Regional Office, Nagpur in suspending the workmen mentioned in the Annexure with effect from the dates mentioned against each is justified. If not, to what relief are the workman concerned entitled?”

S. No.	Name of the workman	Branch/Office where working	Date of suspension
1.	Shri V.M. Joshi, Clerk	MIDC Br. Jalgaon	14-8-81
2.	Shri V.S. Naik, Clerk,	MIDC Br. Jalgaon	14-8-81
3.	Shri V.S. Bhumalkar, Clerk.	Region III Nagpur	17-8-81
4.	Shri P.V. Gade, Clerk	Region-III, Nagpur	17-8-81
5.	Shri D.S. Joshi, Cashier	Nagpur Main Branch	17-8-81”

2. The action as is stated was on accounts of suspension of workmen with effect from the date mentioned against each of them. The order of reference however states that the suspension order was passed by the Regional Office, Nagpur when in fact two out of five workmen namely S/Shri V. M. Joshi and V. B. Naik were suspended by the Regional Office Aurangabad.

3. The alleged holding of the demonstration at Jalgaon Branch of State Bank of India on 1st June, 1981 has given rise to the present dispute on account of the action of the management to suspend the five workmen against whom the enquiry proceedings were instituted, S/Shri V. M. Joshi and V. S. Naik were placed under suspension on 14th August, 1981 as already stated by the Regional office Aurangabad while the three remaining workmen by the Regional Office, Nagpur by order dated 17th August, 1981. It may be mentioned here that on 14th September, 1981 the chargesheets against S/Shri V. M. Bhumalkar, P. V. Gade and D. S. Joshi came to be issued while the chargesheets against the remaining two workmen S/Shri V. M. Joshi and V. S. Naik were issued on 9th November, 1981. Specific reference has been made to these dates because there is a contention on behalf of the workmen that till the issue of charge-sheet no order of suspension could have been passed by the management.

4. By their statement of claim the Union namely the State Bank Workers' Organisation who is espousing the cause of these workmen, have challenged the validity of these orders on various grounds. It seems that there is another Union which is the recognised union called as State Bank of India and Subsidiary Banks Employees' Union and to differentiate between the two the recognised Union would be called as 'the Union' while the Union espousing the cause would be termed as 'the organisation'. It is alleged that since the orders of suspension were not issued for administrative reasons, the orders suffer from the vice of mala fides and as such are not bona fide. It is further contended that on similar occasions involving identical charges against the members of the rival union, the Bank never considered it necessary to suspend the members of the Union and it is therefore alleged that the members of the organisation have been meted out prejudicial treatment on account of their membership of the organisation. The organisation further contended that although the demonstration was held on 1st June, 1961, the orders of suspension came to be issued after a lapse of about 2 or 2-1/2 months and though this much time had elapsed the orders were not accompanied by chargesheet or statement of allegations. It is therefore contended that these orders were issued not for any administrative reasons but with ulterior motives at the instance of the majority Union. It is alleged that the grounds for which an employee can be suspended are enumerated in the letter dated 26th May, 1982 but none of these grounds exists in the instance case. The Organisation then quotes para. 521(10) of the Sastry Award and pleaded, since no chargesheets were issued no orders of suspension could have been passed. The organisation also complains of victimisation of their members and that because of the conciliation proceedings alleged to be pending at the relevant time the orders passed by the authorities are alleged to be in violation Sections 22(2) and 33 of the Industrial Disputes Act.

5. It is already seen that the orders of suspension have been passed by two Regional authorities while in the order of reference as party No. 2, we find the name of the General Manager, State Bank of India, Central Office, New Administrative Building, Cama Road, Bombay-400021 as a result of which by application dated 11th September, 1982 there was a request on behalf of the General Manager (Operations) to discharge him by deleting his name from the list of parties and further with a request to direct the organisation to implead the concerned authorities, who are alleged to have passed the impugned order. This application was opposed by the Organisation by their say dated 16th September, 1982 and by order dated 7th October, 1982 since the dispute arose against the State Bank of India, the request to delete the name of the General Manager was rejected, at the same time since the orders against S/Shri V. M. Joshi and V. S. Naik were passed by the Regional Office,

Aurangabad and the orders against the remaining three were passed by the Regional Office, Nagpur, these authorities were directed to be served with notice to enable them to file their say if any. Accordingly the Regional Office Aurangabad and Office Manager, Regional Office Nagpur have filed their say which since the contentions are common need not be reproduced verbatim. It is alleged that the employees were specifically informed that participation in the illegal demonstration and that preliminary fact finding enquiry led to the evidence of involvement of these employees, thereafter the orders of suspension were issued. Authorities deny to have acted mala fide or to have contravened the provisions of either Sastri Award or bipartite settlement or to have victimised the employees. They also reiterated the legal right of the management to place a workman against whom enquiry is ordered or contemplated, under suspension and deny to have contravened the provisions of either Section 22 or Section 33 of the Industrial Disputes Act as alleged by the organisation.

The workmen have filed their rejoinder whereby the say of the Bank is stated to be an after-thought. The management has also filed their rejoinder where the contentions of the organisation are denied and earlier defence is reiterated.

6. Now because of the contention of the organisation of discrimination in the sense that for similar acts different treatments were meted out to members of the Organisation and that given to the members of the Union, in order to substantiate these allegations by application dated 17th May, 1983 some documents were called for and also permission was sought to serve interrogatories which prayer was opposed by the employer but by order dated 15th May, 1983 the same was granted. However, although several adjournments were sought to file Writ Petition against this order till the date of final hearing and arguments neither the management filed documents and replied interrogatories nor they could succeed in getting the order quashed. The attempt therefore to bring on record the relevant documents which are bound to remain in the custody of the management, although the record and interrogatories are found to be highly relevant, the said attempt failed.

7. On the strength of the pleadings the following issues arise for determination and my findings thereon are :—

ISSUES	FINDINGS
1. Whether the order of suspension was passed mala fide ?	Yes
2. Whether by passing such order the Bank is guilty of discrimination ?	
3. whether the order of suspension amounts to victimisation ?	Yes
4. Whether in relation to S/Shri D. S. Joshi, Bhumralkar and P. V. Gade no order of suspension could have been passed on the ground that proceeding before the Conciliation Officer were pending, as alleged by the Union ?	No
5. Are these three workmen protected workmen as defined under Section 33(3) explanation ?	No
6. When the enquiry commences, whether from the date of service of charge-sheet or any time earlier ?	

From the date
when the

decision to hold enquiry is communicated as contemplated in Sastri Award Para. 521(9).

7. Whether the Bank has right to order suspension even before the service of chargesheet ?

No in the present case.

8. Whether the order of suspension passed against the workman are valid and legal ? If not, what award ?

No. As per award.

REASONS

8. On the ground that at least in the case of S/Shri V. M. Joshi and V. S. Naik against whom the orders of suspension were passed by the Regional Office Aurangabad and not by the Regional Office Nagpur as stated in the order of reference, it was contended on behalf of the management that because of the patent error in the order of reference, atleast in the case of these two employees this Tribunal would have no jurisdiction to entertain the reference under Section 10(1)(d) of the Industrial Disputes Act and that this defect going to the very root of the proceedings will not be cured by the Regional Officer Aurangabad having summoned or he having participated by filing written statement and it is also urged that the jurisdiction if it is absent cannot be conferred by the parties either by consent or by acquiescence. No doubt there is a mistake in the order of reference and it seems at one stage the organisation wanted to approach the Central Government for getting the error rectified but whether any such attempt was made or what what happened to that attempt is not at all known and the fact remains that the reference is as it stood when it was made stands in the same terms even now. Now had the authorities been of different Banks or had those authorities been concerned as different individuals the defects as pointed out which were known to the Organisation from the beginning certainly would have gone into the root of the case and atleast in the case of these two clerks the reference would have been bad. However, it is important to note that the Regional Offices whether at Nagpur or at Aurangabad are offices of the same Bank namely the State Bank of India and it is not disputed that the General Manager State Bank of India controls these offices. We have also seen that in the order of reference itself it is not the Regional Officer at Aurangabad or at Nagpur is made party to the proceedings but the General Manager and if any order is passed against the said authority, the Regional Office or the Officer-in-charge of the said office would be bound by the same. The position therefore is something different and out of ordinary and when there was a request to delete his name by order dated 7th October, 1982 the same was turned down and at the same time the concerned officers who are alleged to have passed the orders against all the five workmen were summoned and given opportunity to file their say. We have already seen any order of the General Manager of the Bank could have never been ignored by the officers working under him. Furthermore Section 18(3) of the Industrial Disputes Act an award of the Tribunal when becomes enforceable

would be binding not only on all parties to the industrial dispute, one of the parties being the State Bank of India represented by the General Manager but also all other parties summoned to appear in the proceedings as parties to the dispute unless there is finding noted by the Tribunal that they were summoned without proper cause. I do not find any reason to note any such finding on the contrary since the orders have been passed to enable them to plead their case their presence on record was necessary and as such the award which may be passed in the case would be binding on the Bank and also the Regional Offices. The contention therefore that there is inherent lack of jurisdiction and this defect could not have been removed either by consent or acquiescence has no more any force because in the first place there is neither lack of jurisdiction nor any consent as such was necessary when the parties were summoned and given opportunity to put forth their version. On behalf of the Bank relying on page 1153 of the Law of Industrial Disputes Third Edition Vol. I of Malhotras what was urged what that any action which would be without any jurisdiction would be unlawful, therefore the award even if passed would be unenforceable. It pre-supposes lack of jurisdiction which factor is totally absent in the instant case as stated earlier and therefore though nobody quarrels with the principle stated by the Bank, the said principle can never be attracted nor for want of jurisdiction the Award can be said to be bad. When the authority who is superior to the Regional Officers is already on record and who is governed by the Award which may be passed assuming that the Regional Managers were not parties still there would not have been any defect. Furthermore by the precaution taken by the concerned authorities under Section 18(3) of the Act the defects if there be any no longer survive. By order dated 7th October, 1982 the three authorities summoned were **The Regional Manager, Region I, Aurangabad, Office Manager, Regional Office, Nagpur and Branch Manager, Nagpur Main Branch** and accordingly I find that the Regional Manager, Aurangabad, Office Manager, Regional Office, Nagpur and Branch Manager, Nagpur who are termed also as Disciplinary authorities have filed their written statement.

9. Once the question of jurisdiction is decided what shall have to be seen is whether the Bank has authority to place these workmen under suspension and further whether this authority has been used mala fide as alleged by the Organisation. Existence or otherwise of the right would certainly be important question to be determined but even if there exists a right, it is essential that right has been properly used and neither there is any mala fide exercise nor any victimisation. If it is noticed that the Bank indulged in unfair labour practice certainly the workmen will have a ground to agitate against such action.

10. For this purpose the contention of the Organisation is that when similar demonstrations were held by the members of the Union, though some action was taken against them these members of the Union were never placed under suspension. Against which the management was prompt in passing these orders that too at a time when no chargesheets were issued against any of these employees. Apart from the question whether before the service of chargesheet the order of suspension was legally issued or not, what is urged is that this exercise of the powers by the management was not bona fide act but an unfair act victimising the members of the Organisation. It seems that besides these five workmen some other members of the same organisation had also parti-

cipated in the demonstration but the choice to proceed fell on these five workmen only. The organisation however is not grudging the said choice nor they would have grudged because if there was mass demonstration on large scale, it is not necessary that the management should proceed against all but in their wisdom they may select such who according to the management might be the leaders who might have led the demonstration and the order against them may deter others. It is not the inaction against the companion of the workmen but it is non passing of the order of suspension against the members of the Union who it is alleged indulged in similar demonstration which has invoked the ground of mala fides and discrimination. On behalf of the management my attention has been drawn to the decision in *Kaliprasad vs. Brooke Bond* (1954 (I), LLJ, page 1963), and *Caltex Vs. Bhosle* ICR 1954, page 598 where it was held that selection of some of the workmen when misconduct committed by several persons, cannot be an act of discrimination. I have already pointed that the organisation is not grudging dropping of the names of other demonstrators but compares the action taken by the management against the members of the Organisation vis-a-vis that against the members of the Union.

11. Although the organisation is challenging the legality of the orders on the ground that they were not passed in terms of either Sastri Award or the Bipartite Settlement, the fact that the management has got a right to place the delinquent workmen under suspension is not disputed. However as already observed the right has been attacked on two grounds firstly on the ground that it was not exercised bona fide and secondly on the ground that no procedure as required by the Award has been legally followed rendering the issue of order bad and illegal. We shall turn to the legal aspects little bit later and at this stage we shall consider whether the right has been bona fide used. In this connection the Union cited *Shri Sharad Krishnarao Rassa* who was the Branch Manager at Jalgaon from the year 1979. The witness says that in the year 1980 the State Bank of India and Subsidiary Bank Employees' Union have carried out agitation for which 14 employees were chargesheeted but none was placed under suspension. The witness also states to hold enquiry against chargesheeted workmen, who were the members of the recognised union an enquiry officer was also appointed but no enquiries were pursued. At the same time the witness refers to the action taken against the members of the Organisation who according to the witness were suspended even before the service of the charge-sheet. It is true that admittedly the witness was absent on 1st June, 1981 when the demonstration giving rise to were alleged to have been held by the members of the Organisation. However, having failed to furnish the documents though called upon to do so and having failed to reply the interrogatories when they were called upon to do so, the Bank would be precluded from challenging any statement made on behalf of the organisation. The best proof of whether the demonstrations were similar whether there was any similarity in the cases, what was the action taken by the management and why no orders of suspension were passed against the members of the Union was all in the custody of the Bank and it is really strange that when the attempt was made by the Organisation to get these records produced and to solicit information in this regard the said attempt was opposed by the Bank tooth and nail. Ultimately order came to be passed which was confirmed by the High Court in Writ Petition. But bank still failed to produce the documents and to answer the interrogatories. The only inference therefore possible from the Bank's action is adverse inference that had this record come before the Court or had the Bank answered the interrogatories, the said record or those replies would have been against the State Bank of India. In other words they would have substantiated and proved the case of the organisation. In the circumstances of the case no other inference is permissible.

12. When therefore the retired Branch Manager who was then in charge of the Branch when the demonstrations were held by the Organisation and also by the Union, says that those demonstrations were similar when all along the organisation was complaining that the treatment meted out to the

complaining that the treatment meted out to the members of the Union is distinctly different than given to the members of the Organisation and when this averment stands established they must speak of mala fide exercise of the powers. I am conscious that the provisions of Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971; Maharashtra Act, No. 1 of 1972 are not applicable to the instant proceedings but it would be beneficial to know what acts are unfair labour practices on the part of Employers. If one set of acts can be declared as unfair labour practices for which action can be taken, even if the provisions are not applicable the force of such acts which have been declared unfair labour practice would still remain and the contention of the organisation in this regard would stand substantiated and supported. Schedule II of the said Act under time 2(h) says that "An employer to dominate, interfere with, or contributed support—financial or otherwise to any union that is to say an employer showing partiality or granting favour to one of several unions attempting to organise his employees or to its members there such a union is not a recognised union." Since the State Bank of India and Subsidiary Bank Employees' Union is the recognised Union admittedly, item (2) would not be attracted. However in Schedule IV there is item 5 which says that to show favouritism or partiality to one set of workers, regardless of merits is an unfair labour practice on the part of the employer. If for similar act the members of the organisation meted out with certain order, at the same time when similar act on the part of the members of the Union was ignored, it would amount to favouritism or partiality to one set of workmen.

13. To place a workman under suspension during the domestic enquiry is really a serious act which is bound to result in grave consequences and it is therefore necessary that before any such action is taken the pros and cons are weighed and the management is satisfied that in the interest of the administration the presence of the workmen in the industrial is harmful and that he should be kept away by suspending the relationship of employer-employee temporarily. The workmen in the case are Bank employees. If the members of the Union who must also be Bank employees when found to be indulging in similar demonstration, were not suspended, when all the attempt was made to bring the proof on record by the Organisation and thereby opportunity was given to the Bank to distinguish the two instances, failed, then there is no other go but to hold though actions were similar, the fact that the Bank did not place the other workmen under suspension leads to one inference namely and there was absolutely no reason to place these workmen also under suspension. In the case of members of Union though chargesheets were issued and almost two years have elapsed no enquiries were commenced. On one hand therefore there is order of suspension, there is issue of chargesheet and though belatedly some of the enquiries have been completed. Nothing like this occurred in the case of the members of the Union. There is no order of suspension and although there is issue of chargesheet, there are reasons to believe that the Bank never intended to proceed against them, otherwise the lapse of two years was sufficient time to initiate proceedings if really intended. I am therefore convinced that there is clear proof of discrimination, there is clear proof to show favouritism and partiality to one set of workmen and that though the Bank under certain circumstances was entitled to suspend the workmen against whom enquiry has been ordered but the said action against these five workmen is proved to have been not at all bona fide. There is nothing to show what led the Bank to suspend the relationship. There was no charge of dishonest misappropriation, fraud etc. which requires instant action since monetary transactions are undertaken in the Bank and where suspected dishonesty cannot be tolerated. Holding of demonstration may or may not be serious misconduct all depending upon the proof but it seems to be not such a grievous act which called for suspension of relationship especially when in the case of similarly placed workmen who were members of the Union the Bank never thought it fit either to place them under suspension or to prosecute the chargesheets issued against them.

14 I was told that the enquiries which were concluded insulted in the enquiry officer's finding holding those work-

men guilty of misconduct. It was therefore urged that when the charge itself was proved there cannot be any victimisation. In this regard we cannot forget the distinction between the chargesheet and order of suspension. If the charges are held proved automatically it would mean that the issue of chargesheet was fully justified. But issue of chargesheet is distinct from issue of order of suspension. Merely because the Enquiry Officer in the relevant case found the charges established would not automatically come to support the act of suspension, particularly when there is sufficient proof on record to presume and infer lack of bona fides. The argument therefore that the domestic enquiry in the case of some of the workmen culminated in proof of charge should negative the plea of victimisation cannot be accepted.

15. In *N. Subramonian Vs. State of Kerala*, 1973(II), LLJ, page 156 it was held that by placing an employee under suspension the authority passing the order must address its mind to the relevant aspect and come to the bona fide conclusion that for the reasons namely that the allegations against him are such that in the interest of maintenance of the purity and probity of the administration or the unkeep of proper standards of discipline and morale in the service it will not be desirable to allow the employee to continue in service until he is cleared of the charges or where the position occupied by the officer is such that his continuance would render the conduct of the investigation against him difficult or embarrassing the employee cannot be allowed to function in any post. It is held that an order of suspension is not to be lightly passed against a Government servant for the reality cannot be ignored that an order of suspension brings to bear the consequences far more serious in nature than several of the penalties. In *P. R. Nayak Vs. Union of India*, 1972(I), LLJ, page 535 while deciding a case union of India Services (Discipline and Appeal) Rules, 1969 it was held that the order of suspension cannot be passed merely when disciplinary proceedings are contemplated. It is true that the case is under different provisions but the principle would be applicable.

16. Against this the management is relying upon the decision in *Tata Engineering and Locomotive Company Ltd. Vs. Prasad (S.C.)* another 1969 (II) LLJ, page 799 when it is stated that inference of mala fide should not be lightly drawn. Here again there cannot be any dispute about the principle but what would be needed is sufficient proof leading to the inference which as already pointed out is present. Another case relied upon is between the General Manager, Parry's Confectionary Limited, and Industrial Tribunal Madras, 1974(I), LLJ, page 422 where the past instances relating to other employees were held to be irrelevant for determining the legality and propriety of the action against concerned employee. The action was of dismissal for which approval was being sought. In the instant case it is not the final order but though interim order for passing of which application of mind was necessary and if on comparison it is noticed in similar circumstances such order was not found to be essential in the absence of any distinguishing factors, there is no reason why a different rule should be applied or should have been applied.

17. It is noticed that when the order of suspension speaks of violent demonstrations the chargesheet does not speak accordingly. This is another instance where the application of mind cannot be inferred.

18. What is contended on behalf of the organisation is that it is the service of chargesheet or at best the communication of the decision under para. 521(9) of the Sastri Award which would be starting point of the enquiry and till then the enquiry can never be said to be pending and if it is not pending para. 521(1)(b) cannot be attracted so as to empower the management to put or place an employee under suspension. For this purpose reliance was placed on *State Bank of India Vs. R. N. Mishra*, a case decided on 9-2-1977 by the Lordships of Allahabad High Court where it was held that on the plain language of para. 521(1)(b) it must be held that the order of suspension passed before the chargesheet had been served on

the plaintiff was without jurisdiction and ineffectual. It must also be held that the order of suspension being illegal and void at the very inception could not acquire the validity after the chargesheet had been submitted.

19. Placing reliance on Allahabad High Court case it was urged that before the service of the chargesheet no order of suspension could have been passed by the management. Against this in Government of India Vs. Tarak Nath Ghosh, 1971(1), L.J., page 299 (S. C.), construing rule 5 and 7 of All India Services (Discipline and Appeal) Rules, it was held that there would be nothing improper per se if the Rules were to provide for suspension even before definite charges of misconduct have been communicated to the officer concerned. It was found that the order of suspension in the said case was far more detailed both with regard to the nature of the charges and to the necessity of placing him under suspension and therefore no rules were said to have been contravened. In K. K. Ramankutty Vs State of Kerala, 1973 LAB. I. C. 411, the Kerala High Court held that a separate formal order of initiating disciplinary proceedings is not necessary before an order of suspension of the delinquent both such order can validly be incorporated in one order. If both these cases are examined minutely it would be evident that what is essential is that a decision of the management should be communicated to the delinquent for holding the enquiry and also the reasons why the order of suspension was passed. It may be that in those cases the orders were found to be answering the requirements of the rules. In the instant case however we find that about detailed enquiry the management had taken a decision though no chargesheet was issued till then but reason for and why the order of suspension was necessary was not stated anywhere. Even if therefore the order of suspension and the order of initiating domestic enquiry are held to be one and the same answering para 521(9) of the Sastri Award still the management having not applied its mind for the reasons as to why the suspension was essential, the orders still suffer from infirmities. Therefore, although with due respect we may not follow the Allahabad High Court judgement still the second requirement laid down in Tarak Nath Ghosh case having not been fulfilled, the order of suspension cannot be said to be valid and legal. Further more as already stated when in the case of other Union the management did not find it necessary to place their members under suspension although the acts were similar, there cannot be any justification in making distinction and it would amount to nothing but discrimination.

20. On 22-9-1983 a settlement seems to have been arrived at whereby in the case of orders of suspension if the order remained for more than one year the employee shall be entitled to full wages. However since the settlement was arrived at in the year 1983 it cannot govern the present case. Furthermore, the period of one year or more must not be the result of delay attributable to the workman and his representatives. It is not known why the enquiry remained pending for so long. Therefore the circular cannot govern the facts of the present case.

21. The order of suspension normally is the managerial function and unless there is proof, lack of bonafide cannot be inferred. However in the instant case the ingredients necessary for inference have been established and therefore it makes it justiciable.

22. It was urged that the workmen were protected workmen and therefore no order could have been passed without the permission of the Tribunal but there is no proof of such fact and therefore this contention cannot survive. Similarly Shri Chaudhari could not point out as to how no proceeding could have been on the ground of alleged conciliation proceeding before the Conciliation Officer and what was the matter before the Conciliation Officer is not known nor when that proceeding commenced and ended.

23. The result is that the order of suspension could not be said to be justified and therefore all the five workmen would be entitled to relief as if they were not placed under

suspension. It has however nothing to do with the domestic enquiry or the disciplinary action as may be taken in the light of the proof furnished during the enquiry and the management is competent to proceed if they wanted to do so.

Award accordingly.

No order as to costs.

M. A. DESHPANDE, Presiding Officer

[No. L-12012/306/81/D-II(A)]

S.O. 149.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial dispute between the employers in relation to the management of Punjab & Sind Bank Limited and their workmen, which was received by the Central Government on the 15th December, 1983.

BEFORE SHRI O. P. SINGLA : PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 88 of 1978

In the matter of disputes between

Shri S. K. Arora,

2/6 Subhash Park,

Rest Camp,

Dehradun.

AND

Punjab and Sind Bank

H-11 Middle Circle Connaught Circus,

New Delhi.

PRESENT :

Shri Tara Chand Gupta—for the workman.

Dr. Anand Prakash—for the management with

Shri G. S. Arora.

AWARD

The Central Government, Ministry of Labour, vide Order No. L-12012/80/78-D. II.A. dated 24th/25th October, 1978, made the reference of the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Punjab and Sind Bank Ltd. in terminating the services of Shri Surendra Kumar Arora, Clerk-cum-Cashier Madhuban Hotel Dehradun Branch of the Bank w.e.f. 22-2-78 is justified? If not, to what relief is the workman concerned entitled?"

2. The workman, Shri S. K. Arora, joined the services of Punjab & Sind Bank as a Typing Apprentice in the Ambala Road, Saharanpur Branch. He joined there on 11-6-1976 and worked there till 30-11-1976 and he was again taken up as trainee at Gwalior Branch of the Bank and worked there from 6-12-76 to 19-5-77. The workman joined Madhuban Hotel Branch at Dehradun on 23-5-77 and the formal letter was issued to him only on 16-6-1977 appointing him on six months probation w.e.f. 23-5-1977. The probationary period was extended

by the letter of 21-11-1977 by three months. His services were terminated by letter dated 22-2-1978. He has claimed that he did not receive either notice or notice pay which was required to be given to him under the Sastri Award, nor did he receive any retrenchment compensation and was, therefore, entitled to reinstatement in service with full back wages.

3. The Management contested his claim and asserted that the bank's orders were correct and his services were terminated during the period of probation, which the Management could do.

4. The evidence of the parties has been recorded and I have heard the representatives of the parties.

5. There is a decision of the Presiding Officer of National Industrial Tribunal, Bombay by Hon'ble Mr. Justice C. T. Dighe in Reference No. NTB-1 of 1979 in the award dated 4th December, 1981 published in Gazette of India, Part II, Section 3, Sub-section (ii) dated 16-1-1982. The National Industrial Tribunal, was dealing with the dispute between the Management of the Reserve Bank of India and their Class III employees. Regulation 25(2) of the Staff Regulations of the Reserve Bank of India allowed the Bank to determine the services of an employee, after giving him notice or pay in lieu thereof. The National Industrial Tribunal examined the case law on the point including the Supreme Court's judgements in "State Bank of India vs. Sundermani" reported in 1976 I LLJ 478, "Hindustan Steel Limited vs. State of Orissa" reported in 1977 I LLJ page 1; "Santosh Gupta vs. State Bank of Patiala" reported in 1980 II LLJ 72; and "Mohan Lal vs. Bharat Heavy Electricals Limited"; 1981 II LLJ 70. The National Industrial Tribunal came to the conclusion that the conflict between the Staff-Regulation and the special legislation, Industrial Disputes Act, 1947, should be resolved in the manner that they should yield to the provisions of Section 25-F of the Industrial Disputes Act, and the staff-regulations granting power to terminate the services should be subject to Section 25-F of the Industrial Disputes Act in respect of workmen governed by the said Act. His Lordship referred to the ruling in "L.I.C. vs. D.J. Bahadur" reported in 1981 I LLJ 1" where the provisions of Section 25-F of the ID. Act were made to govern the provisions of the LIC. Act.

6. In view of this position of the law, the provisions of 'Sastri Award' modified by 'Desai Award' and 'Bi-partite Settlement' have also to yield to the statutory provisions contained in Section 25-F of the Act, and the section under that provision must be subject to the observance of the provisions of Section 25-F of the I.D. Act, 1947.

7. This workman worked on probation during the period from 23-5-1977 to 22-2-1978 for a period of 276 days and, therefore, this period of service exceeds 240 days in a year preceding the date of termination of service and he swims into the harbour of the provisions of Section 25-F of the I.D. Act, 1947, because under section 25-B of the said Act, 240 days' service in a year would mean service for a year.

8. It is not the case where the Management could not terminate the services of the workman, but the requirement is that in case of workman who had completed 240 days, the requirement of Section 25-F regarding notice and payment of retrenchment compensation should be complied with.

9. The Management did not follow this law, which was obligatory for the Management to do and, therefore, the termination of services of the workman is illegal and void on account of transgression of provisions of Section 25-F of the Industrial Disputes Act, 1947, which takes within its fold all types of termination of services except those specifically exempted in it. However, it would be no use of appointing this workman in service to have his services terminated at the next opportunity by the Management on payment of retrenchment compensation and notice pay. Therefore, it is a proper case where the compensation may be paid in the sum of Rs. 30,000. by way of compensation in lieu of reinstatement in service and back wages to the workman. I, therefore, direct that the Management should pay Rs.30,000 to the workman as compensation for the termination of his services which was not in accordance with the provisions of Section 25-F of the I.D. Act and which provision was application to the workman, but the claim of the workman for reinstatement in service with full back wages is declined.

10. The award is made in the terms aforesaid. December 3, 1983.

O. P. SINGLA, Presiding Officer.

NEW DELHI

Further ordered that the requisite number of copies may be forwarded to the Central Government for necessary action at their end.

December 3, 1983.

O. P. SINGLA, Presiding Officer.

[No. L-12012/80/78/D-II(A)]

S.O. 150.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial dispute between the employers in relation to the Allahabad Bank and their workmen, which was received by the Central Government on the 15th December, 1983.

BEFORE SHRI O. P. SINGLA : PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL, NEW DELHI

I. D. No. 22 of 1983

In the matter of disputes between
Smt. Chhedana
through

The President, U.P. Bank Staff Association
67, New Hyderabad, Lucknow.

Versus

Allahabad Bank,
Hazrat Ganj,
Lucknow.

PRESENT :

Shri Rajiv—for the Management,

Shri O. P. Nigam—for the workman.

AWARD

The Central Government, Ministry of Labour, vide Order No. L-12012(592)/81-D.II.A. dated 29th July, 1982 made the reference of the following dispute for adjudication to this Tribunal—

“Whether the action of the management of Allahabad Bank in relation to their Alambagh Branch, Lucknow is not paying 1/3rd sole wages and other benefits to Smt. Chhedana, part-time Sweeperess with effect from May, 1979 is justified? If not, to what relief the said workman is entitled?”

2. Shri O. P. Nigam appeared for workman on 19-7-83 and was granted a number of adjournments for 5-9-1983, 11-10-83, 25-10-83 and 12-12-83, but no statement of claim could be filed nor any settlement made with the Management. Today, Mr. O. P. Nigam has pleaded lack of instructions. It seems that the workman is not interested in pursuing the dispute raised and the U.P. Bank Staff Association, which espoused her case, is unable to pursue the matter further. In this situation, ‘No Dispute Award’ is made

December 12, 1983.

O. P. SINGLA, Presiding Officer

Further ordered that the requisite number of copies of this award be forwarded to the Central Government for necessary action at their end.

December 12, 1983.

O. P. SINGLA, Presiding Officer

S.O. 151.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi, in the industrial dispute between the employers in relation to the Indian Bank and their workmen, which was received by the Central Government on the 15-12-1983.

[No. L-12012/392/81-D-II(A)]

BEFORE SHRI O. P. SINGLA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, NEW DELHI

I. D. No. 94 of 1981

In the matter of disputes between :

Shri O. P. Verma

Shroff,

through

U. P. Bank Employees Congress,
Vijay Hotel, Railway Road,

Aligarh.

AND

Indian Bank,

Regional Office,

1-B, Jhandewala Estate, New Delhi

PRESENT :

Shri D. C. Anand—for the Management.

Shri P. C. Jain—for the workman.

AWARD

The Central Government, Ministry of Labour, vide order No. L-12012/82/80-D.II.A, dated 21st July, 1981 made the reference of the following dispute to the Tribunal for adjudication:-

“Whether the action of the management of Indian Bank, New Delhi in relation to their Bulandshahr Branch in denying payment of Key Special Allowance to Shri O.P. Verma, Shroff with effect from 8-6-77 to 23-4-79 is Justified? If not, to what relief is the workman concerned entitled?”

2. Mr. O.P. Verma was appointed as a Clerk-cum-Shroff in Indian Bank on 7-1-76. The Cashier Incharge was transferred from the Bulandshahr Branch causing a permanent vacancy. Mr. R. P. Sharma, senior to him, was offered the post and on his refusal, Mr. O.P. Verma was assigned the duties and responsibilities of Cashier-in-charge with effect from 12-2-1976. He was paid special allowance upto 7-6-1977, but on account of Managements orders, he was compelled to hand over the charge of Shri R. P. Sharma, who in the first instance, had refused to assume charge and for the period from 8-6-76 till 22-7-79 Dr. R. P. Sharma worked depriving Mr. O. P. Verma of the special allowance. The workman's case is that he could not be deprived of the special allowance and that Mr. R. P. Sharma had refused the post and could not draw the allowance and that under Para 5-9 of the Bi-partite settlement, the special allowance sanctioned to him could not be withdrawn by asking him not to work as a Cashier Incharge.

3. The Management contested the claim and asserted that the allowance was given to him, when he performed additional duties of Cashier-Incharge, but he could not claim that allowance during the period

when his senior, Shri R. P. Sharma was assigned and that under Para 59 of the Bi-partite settlement, performed the additional duties. He could not work as such.

4. The evidence of the workman has been recorded and no oral evidence has been given by the Management. I have heard the representatives of the parties.

5. The workman has relied on the letter of 26th March, 1979 of the AGM to the Manager, Indian Bank, Bulandshahr, which is in the following terms:—

“INDIAN BANK

(R.O. 17 North Beach Road, Madras-600001).

Personnel Dept. Central
Office, 26th March, 1979

Ref. Staff: IR:PB

The Manager,
Indian Bank,
Bulandshahr (UP)

Re : Selection of Key Holding Shroff for your office.

Dear Sir,

We have for acknowledgement your letter dated 1-3-79 forwarding the representation made by Shri O. P. Verma, Clerk/Shroff of your office. Shri O. P. Verma had been working in the cash section and holding the keys from 12-2-76 to 8-6-77 Shri R. P. Sharma had not objected to this and made any representation immediately when the safe keys were entrusted to Shri O. P. Verma on 12-2-76. It amounts that he was not interested in holding the keys at that point of time and as such had given up his claim and right to hold it thereafter. We, therefore, instruct you in suppression of our earlier instructions communicated to you in our letter dated 30-5-77 to hand over the safe keys back to Mr. O. P. Verma and pay him keys allowance.

Yours faithfully,

Sd/-
(A.G.M.)”

6. Properly understood, this letter does not help the workman, because it only declines the claim of Shri R. P. Sharma for period from 12-2-76 to 8-6-77. The taking over of the keys of the safe on 26th March, 1979 is not in supersession of Shri R. P. Sharma but on account of Mr. R. P. Sharma not doing the job and the post falling vacant again. In any case, there is no reason to allow Mr. O. P. Verma special allowance for the period, he never worked and for the period when his senior admittedly worked as Cashier-Incharge. The claim of the workman is non-meritorious. The action of the Management of Indian Bank is justified. The award is made accordingly.

December 5, 1983.

O. P. SINGLA, Presiding Officer

Further ordered that the requisite number of copies of this award be forwarded to the Central Gov-

ernment for necessary action at their end.

December 5, 1983.

O. P. SINGLA, Presiding Officer

[No. L-12012/82/80/D.I.A.]

New Delhi, the 5th January, 1984

S.O. 152.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh in the industrial dispute between the employers in relation to the management of Bank of India, and their workmen, which was received by the Central Government on the 20th December, 1983.

BEFORE SHRI I. P. VASISHTH, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL TRI-
BUNAL, CHANDIGARH

Case No. 118/83/182/81

Parties:

Employers in relation to the management of Bank of India.

AND

Their Workmen—Karnail Singh.

Appearances:

For the Employers—Shri Mangal Singh.

For the Workman—Workman with Shri K. S. Thakur.

Bank of India, Rajpur Township State Punjab.

Dated the 15th of December, 1983

AWARD

The Central Govt. Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the Industrial Disputes Act, 1947, vide their Order No. L-12012/12/81, D. II.(A) dated the 9th of December, 1981 read with S.O. No. S-11025(2)/83 dated the 8th of June 1983 referred the following Industrial dispute to this Tribunal for adjudication:—

“Whether the action of the management of Bank of India in not granting the annual increment to Shri Karnail Singh, Sepoy Rajpur Township Branch of the Bank taking into account the confirmed regular part-time service with effect from 24-3-76 is justified? If not, to what relief is the workman concerned entitled?”

2. When the case was taken up for hearing, the parties reported a private settlement indicating ‘inter-alia’ that on bilateral negotiations, the management had satisfied the claim of the petitioner/Workman and, as such, he was no longer interested in pursuing the case.

3. Accordingly, on taking down the statement of the petitioner/Workman and being satisfied with the bonafides of the settlement, I, hereby return a No-dispute Award.

15-12-83

I. P. VASISHTH, Presiding Officer

Central Govt. Industrial Tribunal, Chandigarh.

[No. L-12012/12/81-D. II.(A)]

New Delhi, the 6th January, 1984

S.O. 153.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Madras in the industrial dispute between the employers in relation to the Management of State Bank of India and their workmen, which was received by the Central Government on the 19-12-83.

BEFORE THIRU T. ARULRAJ, B.A., B.L., PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, TAMIL NADU MADRAS

(Constituted by the Government of India)

Saturday, the 10th day of December, 1983

Industrial Dispute No. 32 of 1982

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of State Bank of India, Madras-1).

BETWEEN

The workmen represented by the General Secretaries :

- (1) State Bank of India Staff Union, P.B. No. 1754, State Bank Buildings, Rajaji Salai, Madras-600001.
- (2) The State Bank Employees' Union, P.B. No. 1548, Angappa Naicken Street, Madras-600 001.
(Impleaded as per Order dated 7-9-82 in Misc. Appln. No. 99/82).
- (3) State Bank Workmen Staff Union, Madras Circle No. 62, Gengureddy Street, Eamore, Madras-600 008.
(Impleaded as per Order dated 7-9-1982 in Misc. Appln. No. 105/82).

AND

The Chief General Manager, State Bank of India, Madras Circle, No. 21, Rajaji Salai, Madras-600 001.

REFERENCE :

Order No. L-12012/14/81-D.II(A), dated 15th June, 1982 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Saturday, 26th day of November, 1983 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru B. R. Dolia for Thiruvalargal Aiyar and Dolia, G. Venkatarangan, R. Arumugham and R. Viduthalai, Advocates for Union No. 1, Thiruvalargal Row and Reddy and K. Chandru, Advocates for Union No. 2, Thiruvalargal Naidu and Bhat, Advocates for Union No. 3 and of Thiru M. R. Narayanaswami for Thiruvalargal King and Partridge, Advocates for the Management, and this dispute having stood over till this day for consideration, this Tribunal made the following award :-

AWARD

This dispute arising out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in Order No. L-12012/14/81D.II(A), dated 15-6-1982 of the Ministry of Labour is in respect of non-payment of bonus as usual from 31-12-1975.

- (2) According to the allegations in the separate claim statements of State Bank of India Staff Union, Madras, State Bank Employees' Union, Madras and State Bank Workmen Staff Union, Madras, the Imperial Bank of India which was the predecessor-in-interest of the Respondent—Bank used to close their books and accounts and declare dividends at the close of the each half year ending on 30th June and 31st December each year. After the close of the first half year in 1943, and long before the advent of concept of bonus in industrial law, the Imperial Bank paid bonus equivalent to one month's basic pay drawn by them on 30-6-1943 and

also 31-12-1943 to its employees and the Respondent-Bank continued to pay the same when it succeeded Imperial Bank in 1955 without break in an unbroken change and irrespective of any profits or the salaries of the employees, in spite of prohibition under Section 10 of the Banking Companies Act, 1949, before the amendment in 1956. In 1957, the calculated amount of bonus payable to each officer was merged with the respective basic pay with consequential increase in Dearness Allowance and superannuation benefits. Even after the passing of the Payment of Bonus Act, 1965, this mode of payment of bonus every half year was not touched. In fact, Section 17 of the Payment of Bonus Act provides that in case where the employer had paid any puja or customary bonus to an employee the same shall be adjusted against the bonus payable under the Act. This section has thus recognised the right of the employees to receive customary bonus debits the profit sharing bonus. It has thus become an implied condition of service and it is more or less in the nature of deferred part of wages paid in lumpsum on two occasions in a year irrespective of profits or dividends. It is not ex-gratia payment and it is not fitted in the pattern of profit sharing bonus envisaged by the Payment of Bonus Act, 1965. In other words, not less than two months basic pay was paid to employees in all the years right from 1943 upto the year 1975 and for the first time departure was made in 1975. Under the Payment of Bonus Act, profit sharing bonus is paid after the close of the accounting year, based on the allocable surplus. It is never paid in terms of basic wages. It cannot be therefore fitted in under the provisions of the said Payment of Bonus Act. For the first half year, ending 30-6-1975, the first Respondent-Bank paid the usual one month basic pay as drawn by the employees on 30-6-1975 as bonus to all the employees. On 25-9-1975 the Central Government issued ordinance of 1975 called "The Payment of Bonus Amendment Ordinance" inter alia removing the Banks from the purview of the Bonus Act. Hence, the first Respondent has not paid bonus for the half year ending with 31-12-1975, but only ex-gratia payment at 8 per cent for the year ending 31-12-1975 after adjusting the one month's basic pay already paid and the payment is made only to the employees who are eligible under the Payment of Bonus Act and the employees, who are drawing salary, not exceeding Rs. 1600 per mensem. Under these circumstances, the action of the Management in stopping such payment with effect from second half of the year 1975 is not based on any valid grounds or reason. The State Bank Employees Union will add that the Respondent has not given any notice under Section 9-A of the Industrial Disputes Act, 1947 to withdraw the right of the workmen to receive customary bonus and hence their action is illegal. For all or any of these reasons therefore it is prayed that the Respondent should be directed to pay all Award staff, two months basic pay as drawn on 30th June and 31st December respectively each year commencing from 2nd half of the year 1975 irrespective of the salary drawn by them and without any ceiling together with interest at 12 per cent per annum from the due date of payment commencing from the half year from 1975 besides costs of these proceedings.

- (3) The Respondent-Bank in its counter statement contends in the year 1942, during the war years, just like other employees in Bombay, the employees in the Bank were paid bonus. The first bonus equivalent to one month's substantive pay was declared for the period from 1st July, 1941 to 30th June, 1942, after ascertaining profits for the half year ended 30th June, 1942. From July, 1942 to June, 1944, bonus was paid to the members of the Staff at the rate of one month's substantive pay for one year. From 1945, two months' substantive pay came to be paid, one month's pay being paid at the end of each half year ended 30th June and 31st December. A special Independence bonus equivalent to one half of one month's substantive pay was also declared and paid by the said Imperial Bank in August, 1947. The said Imperial Bank of India had always made profits in its operation and there was no question of the said Bank, ever sustaining any loss. After the transfer of the Imperial Bank to the State Bank of India in 1955, the practice of closing the accounts as on 31st December was adopted. Nevertheless the Bank also ascertained its profits for every half year at the end of 30th June and declared interim dividends. The Bank also paid to its employees interim bonus at the rate of one month's substan-

tive pay on 30th June. All these payments were as a mark of making profits for the concerned half years. There was never any year in which the Imperial Bank or the State Bank of India failed to make profits, so that there can be no question of any such payments being irrespective of profits. When the Payment of Bonus Act, 1965 came into force, the manner of calculation of bonus was laid down under the said Act. As far as the Bank is concerned, the payments were used to be made every half year with reference to the profits for the said half year. Nevertheless the payment of such bonus from and after 1964, when the Act came into force was under the Act and the Bank followed the pattern and formula set out thereunder. After the coming into force of the Payment of Bonus Act, the payments were linked up with or related to, the liability for profit sharing bonus under the Act. In fact, the Union itself has accepted this by entering into various agreements from time to time on the question of bonus. The very fact that additional adhoc payment besides two months' pay will show that it is profit sharing bonus. The Claimant Union is not correct in stating that the payment made every year is not the profit sharing bonus. The contention that it is only a part of deferred wages is absolutely wrong. It is well known that the bonus payable under the Act is not deferred wages as has been held by the National Commission dealing with the matter. There is no question of the Respondent withdrawing the so-called deferred wages. The very concept of deferred wages is inconsistent with the said payment being made without being assimilated to wages for over a period of two decades and more. It is inconceivable that Union would have allowed the so called deferred wages without being assimilated into wages in computing fringe benefits like bonus, leave wages, terminal benefits etc. It is absolutely misleading and incorrect on the part of the claimants to say that the payment of bonus has been unbroken and irrespective of any profits. It is not without significance that the claimants admit that the Dessai Tribunal gave an Award in respect of the dispute for bonus, more or less accepting the Full Bench Formula. It is well known that the Full Bench Formula is the precursor to the Act in respect of payment of profit bonus. Section 17 of the Act referred to therein is without any relevance. It is not correct to say that Section 17 of the Act recognises the right of the employees to receive customary bonus. The employees of the Bank were not at any time paid customary bonus, but they were being paid only profit sharing bonus. On the facts of the case, there can be no question of payment made to the employees being termed as customary bonus. For one thing admittedly the payments were not related to any festival. Secondly the payments were directly linked up with profits, and not to any other circumstances. In fact the very attempt of the claimant who call these payments as customary bonus in one place and deferred wages in another place disclose the total confusion in their thinking. It is not explained as to what contractual bonus is and how it can arise in the present case. It is also incorrect to say that the payment of bonus to the employees has become an implied condition of service. The Act was amended in the year 1975 and by the said amendment, Banks are excluded from the operation of the Act. Thus no amounts, by way of bonus have become payable to the employees. In order to relieve this hardship, the Government and the Reserve Bank of India had directed the Bank to make ex-gratia payments in lieu of bonus, which the employees might have got under the Act. The employees under these circumstances will not be entitled to make any demand on the basis alleged by them. The claim for interest is not only frivolous but also vexatious. In the above circumstances, it is prayed that the claims may be rejected.

(4) The points for determination in this case will be:

- (1) Whether the Award staff are entitled to payment of one month's wages biannually as drawn on 30th June and 31st December respectively each year, by way of bonus, irrespective of the quantum of salary, as customary bonus, or contractual bonus or deferred wages; and
- (2) to what relief are the parties entitled.

(5) Point No. 1 Sri M. R. Narayanaswami, learned counsel for the Management of course contends at the outset that the Union whose title under the Act is, status or claim on profit or otherwise of the nature of bonus paid earlier as customary bonus as has been mentioned in clause (2) of the reference and it is not open to the Management to have inconsistent stand as relied in the pleadings either as contractual bonus or deferred wages. It is true, the Petitioner-Union claims relief for perpetuation of the payment of bonus started right from 1941, even after the amendment under the Payment of Bonus Amendment Ordinance, 1975 as contractual bonus or bonus being implied condition of service, deferred wages or customary bonus, while in the reference it is restricted to customary bonus only. All that the Union's claim is bonus denors of Payment of Bonus Act and according to them, it may arise out of a contract or by custom or as part of wages. In fact, that was the case of the Union not only in the affidavit Ex. W-4 filed in W.P. No. 2491/1976 on the file of High Court of Madras, but also in Ex. W-2, dated 26-12-1979 addressed by the 1st Petitioner-Union to the Regional Labour Commissioner (Central), Madras. In fact, under Ex. W-2, copies of which have been sent to Chief Commissioner of Labour, New Delhi, Secretary, Ministry of Labour and Employment, Government of India Shram Bhavan, New Delhi and the Management of State Bank of India, Madras, Unions have requested that the dispute may be formulated as follows, viz., (1) whether the action of the Management of State Bank of India in stopping the payment of one month's wages as drawn on 30th June and 31st December respectively by way of bonus annually with effect from the second half of 1975 is justified legal and valid, if not to what relief the workman (i.e.) award staff are entitled and (2) are the members of the award staff of State Bank of India entitled to receive annual bonus of two months' basic wages (as drawn on 30th June and 31st December respectively) irrespective of the salary as a customary bonus or as an implied condition of service or as deferred wage, if so what relief the workmen are entitled to. However, when the reference was made by the Government of India, the other two basis of claims, namely, as an implied condition of service or as a deferred wage has been omitted. It follows therefore that the Unions claim this bonus on the basis of custom, contract or deferred wage and not custom alone, as contended by Sri M. R. Narayanaswami. In such circumstances, as was held in *Minimax vs. its workmen* reported in 1968—1, LLJ at page 373, a judgement delivered by our Honourable Chief Justice of Madras High Court, then Puisne Judge of the Patna High Court, it is to be adjudicated in this dispute, whether this claim could be sustained on all or any one of the grounds viz., custom, contract or deferred wages and sustainability of this claim cannot be restricted on the basis of customary bonus alone as contended by Sri M. R. Narayanaswami.

(6) It is true, by amendment of clause (vii) of Section 32 under the Payment of Bonus Amendment Ordinance, 1975 which has become Act 23 of 1976, payment of profit sharing bonus to the employees of the banking industry was prohibited. Of course, it is lost sight of the latest amendment to this Section, by Payment of Bonus Amendment Ordinance, 1977 by which, clause (a) sub-clause (vii) of Section 32 prohibiting payment of profit sharing bonus to the employees of Banking Industry is altogether omitted. It appears therefore from the date of this Ordinance, which comes into force on 3rd September, 1977, the employees of banking industry also will be entitled to profit sharing bonus. Whatever it may be, the point that has to be decided is, whether what is claimed by the Petitioner-Union by way of bonus, is profit sharing bonus or rather what was paid to them all these years is profit sharing bonus or it has become an implied term or condition of service or contractual bonus or part of deferred wages or customary bonus, not hit by any prohibition, under the Payment of Bonus Amendment Ordinance of 1975. As has been held by the Supreme Court in *Hukumchand Jute Mills Limited Vs. Second Industrial Tribunal, West Bengal* reported in 1979—1, LLJ at page 461, under Section 17 of the Payment of Bonus Act, which keeps bona fide and customary bonus in tact, the customary or contractual bonus goes beyond the pale of Amending Act, which modifies the previous one by bringing within its range bonus on the basis

of production or productivity also. It has to be decided therefore in this case, whether the payment made admittedly made periodically right from 1941 till June, 1975 is profit sharing bonus as claimed by the Management, so as to do stopped as and when prohibited by the Act or it is customary or contractual bonus or deferred wages, as contended by Sri Dolia, learned counsel for the 1st Petitioner-Union to withstand all the storms of prohibition under various legislations right from the Banking Amendment Act of 1949, Payment of Bonus Amendment Act, etc.

(7) Though no document is produced on either side, for payment of bonus till the accounting year, ended 31-12-1962, it is not disputed, under whatever conditions and circumstances, bonus might have been made, it was paid at the rate of one month's salary every year from 1st July, 1941 and one month salary half yearly (i.e.) biannually ending with 30th June and 31st December every year from 1945 onwards till 30th June, 1975, in spite of Section 10 of the Banking Regulation Act, 1949 prohibiting payment of bonus to the employees of Banking Industry. For the accounting year 1963, under Ex. M-1, it was resolved to pay interim bonus which should have been paid also perhaps at the same rate as before, out of contingency account to be reimbursed by transfer from profits at the end. Under Exs. M-2, M-3, payment under which was post sanctioned under Ex. M-19, dated 28-1-1966, M-4, M-19, M-10 and M-5 which is based on Ex. M-11 for the accounting years 1964 to 1970 respectively, bonus was declared to be payable to the employees at 10 per cent, 8 per cent, 8 per cent, 7-1/2 per cent, 7-1/2 per cent, 8 per cent and 6 per cent respectively of the salary or wage as defined under the Payment of Bonus Act, 1965. However, the members of the Award staff were allowed as in the past to draw bonus for the years 1964, 1965, 1968, 1969 and 1970 at the rate of one month substantive pay for each of the half years ended 30th June and 31st December and in respect of accounting years 1966 and 1967, bonus were paid in terms of an agreement under Ex. M-8, an adhoc amount equivalent to 1 per cent of salary or wages as defined in the Payment of Bonus Act, 1965 or if the bonus declared at the above rates 8 per cent and 7-1/2 per cent for 1966 and 1967 respectively was lower than the aggregate of one month's substantive pay drawn by them as at the end of the half years ended 30th June and 31st December, the difference between the two amounts whichever was higher. No document is produced to show what was paid for the accounting year 1971. Perhaps the same arrangement as for the accounting year 1970 should have been also continued to be paid for this accounting year, in spite of alleged settlement, enclosed in Ex. M-17 at 52 days bonus or Rs. 1450 for the year 1970 and 80 days bonus or Rs. 1500 for the year 1971. However, for the accounting years 1972 and 1973 under Exs. M-12 and M-13, amounts representing 84 and 92 days average basic pay of the respective accounting years respectively were paid in the later case, subject to the maximum of Rs. 1700 to all the members of the staff. No documents is produced to show what was paid towards bonus to the award staff in the year 1974 but it cannot be less than two months' substantive pay, as otherwise, available document to the contrary would have been produced by the Management to rebut the claim of Union, that it has paid so. Under Ex. M-7, only ex-gratia payment for the accounting year 1974 is contemplated and what is that amount and what it is in addition to what was already paid cannot be known, unless the memorandum as referred therein is produced. It is admitted that one month's substantive pay was paid as due on 30-6-1975 and thereafter only payment was stopped. Two things are clear from these documents that even after the introduction of the Payment of Bonus Act, 1965, from the accounting year 1964, invariably, whatever may be profit as ascertained under Exs. M-10 and M-11 for the accounting years 1969 and 1970 or unascertained as in the past, one month's substantive pay for every half year ended 30th June and 31st December was always paid to the Award staff and it was always insisted upon by the Federation that they should be paid bonus according to the provisions originally of Senior Award and subsequently under the Payment of Bonus Act, even though, every now and then, not according to the demand of the staff but with the discretion of the Management, a little more than this amount, was paid in the years 1966 and

1967 and also in the years 1972 and 1973. Sri M. R. Narayanaswami, learned counsel for the Management, on the strength of the various records contained in the documents referred above that the amount which was originally debited to the contingency account was later on reimbursed from a transfer of profit at the end of the year, that the payment is available only to those who are not disqualified as per the said Payment of Bonus Act, that the payment at the rate of one month's substantive pay each half year is of a tentative nature, subject to recovery later on that the quantum of bonus is at 8 per cent of the salary or wage as defined under the said Act and also the claim of the Union under Ex. M-14 under a bonus formula prescribed by the Desai Tribunal for the accounting years 1956 to 1963 that the adhoc settlement shall not be treated as a precedent or taken as a basis or govern the principle for the determination of bonus for any of the accounting years 1965 onwards contends that they reflect only payment of bonus under the provisions of the Payment of Bonus Act which is profit sharing bonus atleast from the accounting year 1964 if not earlier and that therefore the staff will not be entitled to any profit sharing bonus after the Amendment of the Payment of Bonus Act, 1975 prohibiting such profit sharing bonus to employees of Banking industry.

8. It is true, invariably it is declared under Exs. M-2 to M-5, M-10, M-11 and M-14, that all the employees, award and non award staff, who are not disqualified, be granted bonus at various percentages of the salary or wage as defined thereunder. Under Section 2(13) of the Payment of Bonus Act, employee means any person employed on a salary or wage not exceeding Rs. 1600 per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward whether the terms of employment be express or implied. Therefore under the Act, persons drawing more than Rs. 1600 per mensem were excluded from sharing the profits by way of bonus. But in the case of Award staff for whom this dispute is raised, they were receiving bonus, as a matter of right, irrespective of salary that they were drawing. In fact, it is alleged in the claim statement that some of the members of the Award staff were getting more than the sum fixed under the Act, and yet they were getting bonus irrespective of the ceiling on the salary. In fact, in Ex. M-10, the memorandum for the Central Board, it is stated that under the Payment of Bonus Act, while officers drawing salary or wage (i.e.) salary and Dearness Allowance and City Compensatory Allowance, if any above Rs. 1600 per mensem are not eligible for any bonus and maximum bonus at Rs. 750 per mensem is fixed, the ceiling does not effectively operate in the case of the Award staff, as they were paid a higher bonus, etc. In paragraph (1) of Ex. M-11, it is stated that members of the Award staff were allowed, as in the past to draw bonus at the rate of one month's substantive pay for each of the half years ended the 30th June and the 31st December and the members of the rest of the staff who were eligible for bonus under the Act were paid bonus. So, the eligibility for bonus under the Act was not applied to the Award staff, so as to be contended that since they are governed by the Payment of Bonus Act, they have been getting only share in the profit by way of bonus. Under Ex. M-2, for the accounting year 1964, bonus was awarded at 10 percent of the salary or wage and recovery of excess, if any, by payment made already at one month's substantive pay half yearly ended 30th June and 31st December, 1964, was then left open. There is no evidence that anything was recovered or that it is less than two months' substantive pay, as regularly paid all these years. If 10 percent represents only the amount of aggregate of two months' pay, then it cannot be said that it is paid out of profits, particularly when profit and loss account in the possession of the Management is not produced. On the other hand, it shows that the Award staff is not entitled to anything more than two months' substantive pay by way of custom, contract, express or implied or deferred wages and not a share in the profits, worked out at 10 percent of the wages. Further, it is admitted by the Management itself at para (3) of Ex. M-10 and para (4) of Ex. M-11, the Bank was paying to the Award staff at the rate of two months' basic pay or at the rate declared by the Bank under the Payment of Bonus Act, whichever is higher, with a view not to reduce the rate of bonus, the Bank was paying before the application of the Act. The quantum of bonus payable under the

Payment of Bonus Act will be certain percentage on the salary or wages which is defined under Section 2(21) of the Payment of Bonus Act, as all remuneration (other than remuneration in respect of overtime work) capable of being expressed in terms of money and also dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living). But in the case of Award staff, only the quantum representing two months substantive pay was paid as bonus, a pattern different from that, contemplated under the Payment of Bonus Act. Another important feature in the payment of bonus to the Award staff is biannual that is payable on 30th June and 31st December, whereas the payment of bonus under the Payment of Bonus Act is annual. These distinct features will run counter to the nature of profit sharing bonus, contemplated under the Payment of Bonus Act and therefore the bonus in question must be either customary or contractual or form part of deferred wages, as contended by Sri Dolia, learned counsel to the 1st Union, so as to be not hit by the prohibition introduced by the amendment of Payment of Bonus Amendment Act, 1975.

9. It is contended by Sri M. R. Narayanaswami, learned counsel for the Management, it cannot be customary bonus as it is not in any way connected with festival. In support of his contention he relies upon *Employees' Union vs. B. N. Elias & Co.*, and others reported in 1960—II—L.L.J. (Supreme Court) Page 219, at page 221 and *Cherakulan Tea Estate Private Ltd., vs. its Workmen* and another reported in 1969—II—L.L.J. at page 407 (Supreme Court). In the former case, the Supreme Court held that payment of bonus un-interruptedly, no doubt from 1942 to 1952, three times a year to the clerical staff and four times a year to subordinate staff, admittedly as ex-gratia payment and accepted as such will not imply a term of service on the basis of implied agreement or customary bonus if such payment is unconnected with any festival as Pooja in Bengal or some other equally important festival in any other part of the country. This view has been confirmed in the latter case by the same Court that payment of bonus however continuously and un-interruptedly made, if it is not uniform or connected with any festival or both, neither implied condition of service nor customary bonus could be inferred. In the latter case, relied on by Sri Narayanaswami, it is not ruled out that customary bonus should be always connected with festival. On the other hand, it was held in *Grahams Trading Company (India) Ltd. vs. Their workmen*, reported in 1959—II—L.L.J. page 393, at page, 396 that if the bonus has been paid un-interruptedly for long time and at a uniform rate as in this case, as far as two months' substantive pay is concerned throughout, even at a time when there was loss, which is found to be not necessary in the later case *Tulsidas Khimji vs. Their workmen* reported in 1962—I—L.L.J. page 435, at page 442, it is customary bonus as contended by Sri Dolia, learned counsel for the 1st Union. Even in *Mumbai Kamgar Sabha vs. Abdulbhai Faizullabhai* and others reported in 1976—II—L.L.J. page 186 (Supreme Court) relied on by Sri Dolia, the Supreme Court has observed in paragraph (17), "The crucial question is not whether there is a festival which buckles the bonus and the custom. What is legally telling is whether by an unbroken flow of annual payments, a custom or usage has flowered, so that a right to bonus based thereon can be predicated. The custom itself precipitates from and is proved by the periodic payments induced by the sentiment of the pleasing occasion, creating a mutual consciousness, after a ripening passage of time, of an obligation to pay and a legitimate expectation to receive." It is true as contended by Sri M. R. Narayanaswami that this has been remanded for purpose of finding out whether in any event the long payment amounts to customary bonus, but nevertheless it does not attach any importance to festival being connected with such bonus to conclude it as customary bonus. Under these circumstances, I have no hesitation to hold that the payment of bonus at two months' substantive pay each year is customary bonus outside the pale of the amendment of Payment of Bonus Act, 1975.

10. At any rate, as far as the payment of one month's substantive pay or salary biannually in a year being uniform

and for a long time it will be certainly an implied condition of service or contractual bonus if not customary bonus. Though in *Grahams Trading Company (India) Ltd. vs. Their workmen* and also in *Employees' Union vs. B. N. Elias & Co.*, and others, it was held where certain amounts are paid as ex-gratia payment, and on condition, it should not be taken as precedent and in the latter case, it is accepted as ex-gratia amount, no inference could be drawn, as implied condition of service as there is no meeting of minds regarding the subject matter of the agreement. It is true in certain years under Exs M-3 and M-4, it is stated that ex-gratia payment should not be taken as precedent in future, but not two months' substantive pay. Therefore this payment could be taken as implied condition of service also. In fact, it was held in *Bombay Company Ltd. vs. its workmen*, reported in 1964—II—L.L.J. page 109, where the payment of bonus is uniform or connected with festival, it could be inferred as implied condition of service. In this case, as the quantum of bonus at two months' substantive pay is uniform it will be construed as condition of service.

11. Even granting that it is neither customary bonus nor contractual bonus, I have no hesitation to hold that it is part of deferred wages and therefore this bonus, irrespective of any prohibition under any Act, is liable to be paid to the Award staff. It has been contended in the claim statement of the Petitioner-Union that for a long time, annually in the first instance and biannually subsequently, a month's salary has been paid not only to the Award staff, but also Junior Officers and in 1957, this annual payment paid to the Junior Officers was merged with their wages, while the biannual payment to the Award Staff continued to be paid by the Management. The Management in its counter statement, while referring to this averment, has not denied this merger. On the other hand, it is alleged at paragraph (15) of the counter statement, the Bank decided to stop the payment of bonus to Officers, but nevertheless to avoid hardship to them, the bonus component was duly taken into account in the revised scales of pay and while for the Junior Officers, an amount equivalent to two months' basic pay was taken into account, for Senior Officers only one month's basic pay was taken into account. It is therefore indirectly conceded by the Management itself that in lieu of bonus, equally paid to the Officers, their scale of pay was improved. It implies therefore what has been paid by way of bonus right from 1941 to the officers and the Award staff is only part of wages or wages deferred annually or biannually and not ex-gratia payment, as contended by Sri Narayanaswami. In any event, two months' substantive pay as originally paid from 1945, though with some addition subsequently, after the amendment of Payment of Bonus Act, 1965 is not related to profit sharing bonus under the Payment of Bonus Act but either as customary bonus or implied condition of service or deferred wages, the Management is bound to pay the same, in spite of prohibition of profit sharing bonus under the provisions of the Payment of Bonus Amendment Act, 1976.

12. Sri Dolia, learned counsel for the 1st Petitioner-Union contends that in addition to the bonus, the Management is bound to pay also interest at the rate of 12 percent per annum from the date, these amounts are due to be paid, though in the claim statement, interest is claimed at 13 per cent per annum. Of course, the Management will refute not only its liability to pay any bonus, but also any interest. The reference to this Court is only to ascertain whether any bonus at all is payable for the period in dispute, (i.e.) 2nd half of 1975 to 1st half of 1977, when the Amendment Act of 1976 was alleged to have prohibited profit sharing bonus. Thereafter, the prohibition being lifted, bonus has become payable as usual as I have held earlier. In the absence of any reference for adjudication as to the liability to pay interest for this amount, I doubt whether this Court can also, in addition to directing payment of bonus for the period stopped, order payment of interest thereon. No authority is cited to support this claim. On the other hand, when reinstatement is ordered with back wages by this Court in various other cases, no interest for the back wages is paid or ordered to be paid. Further, it is not as if the Management stopped payment of bonus without any justifiable ground. The Management has been

paying bonus even at the time when under Section 10 of the Banking Regulations Act bonus was prohibited. It is only on account of the advent of the Amendment of the Bonus Act prohibiting profit sharing bonus as I held earlier to the bank employees that this situation has arisen. Even after this alleged prohibition, it is alleged that some exgratia amounts are being paid to bank staff, to avert hardship caused by this prohibition. It is a different matter whether in fact there is any such prohibition for payment of bonus to the Award staff and in fact it is not so. But there cannot be any bad intention on the part of the Management to stop this payment under these circumstances. Therefore, I do not think that payment of interest is also warranted in these circumstances. This point I find accordingly in favour of the Union.

13. Point No. 2.—In the result, an award is passed directing the Management to continue to pay atleast two months' substantive pay as customary bonus or any of its kind bi-annually at every half year ended 30th June and 31st December from 2nd half of 1975 onwards to Award staff less what is alleged to be paid as exgratia payment, if true, with costs of Rs. 500 to the 1st Petitioner-Union. The other two Unions will bear their own costs.

Dated, this 10th day of December, 1983

T. ARULRAJ, Industrial Tribunal

WITNESS EXAMINED

For both parties—: None

EXHIBITS MARKED

For workmen.

- W-1.—Judgment in W. P. No. 262/79 of the Supreme Court of India, dated 17-12-1979. (copy).
- W-2/26-12-79.—Letter from State Bank Staff Union to the Regional Labour Commissioner, Madras. (copy).
- W-3/14-5-80—Reply to Ex. W-2 from the Regional Labour Commissioner, Madras. (copy).
- W-4/14-3-76—Affidavit of Thiru V. Ganesan in W. P. No. 76 in High Court, Madras. (copy).
- W-5/14-3-78—Counter affidavit to Ex. W-4. (copy).
- W-6/15-3-79—Writ Petition No. 262/79 filed in the Supreme Court of India by the Union. (copy).
- W-7/31-1-1966—Letter from the State Bank Staff Union to the Secretary and Treasurer, State Bank of India, Madras-1.

For Management :

- M-1-1963—Resolution of the Executive Committee of the State Bank of India.
- M-2—1964—Resolution regarding bonus declaration for 1964.
- M-3-1965—Resolution regarding bonus declaration.
- M-4-1966—Resolution regarding bonus declaration.
- M-5-1970—Resolution regarding bonus declaration.
- M-6-1972—Resolution regarding bonus declaration.
- M-7/28-1-76—Extract from the Proceedings of the Executive Committee of the Central Board.
- M-8/14-7-66—Agreement between the Management and their Union.
- M-9—Notice for bonus for 1969.
- M-10/19-1-70—Memorandum for the Central Board by the Managing Director of State Bank of India.

M-11/21-1-71—Memorandum of for the Central Board by the Managing Director of State Bank of India.

M-12/6-7-73—Agreement between the Management and All India State Bank of India Staff Federation.

M-13/20-9-74—Agreement between the Management and All India State Bank of India Staff Federation.

M-14/30-11-65—Letter from the Union Federation to the Management.

M-15/20-9-66—Letter from the Regional Labour Commissioner (Central) Bombay to the Management.

M-16/3-11-69—Letter from the Federation to the Management.

M-17/18-8-72—Letter from Nirmal Choudry to the Chief Officer (Personnel & Administration), Bombay.

M-18/31-5-74—Letter from Nirmal Chouduri to the Chief Officer, State Bank of India, Bombay Central Office

M-19/28-1-66—Staff Circular No. 5 regarding Payment of Bonus Act.

[No. L-12012/14/81-D.I.A.]
N. K. VERMA, Desk Officer

T. ARULRAJ, Industrial Tribunal

घादेश

नई दिल्ली, 3 दिसम्बर, 1983

का० आ० : 154—केन्द्रीय सरकार को राख है कि इससे उपाय अन्तुष्टी में विनिर्दिष्ट गिथ के बारे में श्री जमील अहमद पठान, मालिक असकासी पुना पत्थर खान, हाकबर इबादेय, जिला कोरा से सम्बद्ध एक औद्योगिक निबोजकों और उनके कर्मकारों के बीच विद्यमान है ;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है ;

अतः, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेंद्र भूषण होके, जिनका मुख्यालय जयपुर में होगा और उक्त विवाद को उक्त अधि-करण को न्यायनिर्णयन के लिए निर्देशित करती है ।

अनुसूची

क्या श्री जमील अहमद पठान, मालिक असकासी पुना पत्थर खान, हाकबर इबादेय जिला कार्य द्वारा नियोजित कर्मकारों की निम्नलिखित भागे न्यायोचित है यदि हां तो संबंधित कर्मकार किस अनुसूची का इस्तेमाल है ?

भाग

1. 600 रुपए प्रति माह प्राप्त करने वाले मासिक 48 कर्मचारियों को 1-10-82 से 80 ६० प्रति

माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।

2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारों (अकुशल श्रमिकों) को 1-10-1982 से दैनिक मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।

3. सभी पत्थर काटने वालों (कारीगरों) को 1-10-82 से प्रति 107 वर्ग फुट चूना पत्थर काटने के 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल-29012/16/83-डी-3 (बी)]

ORDERS

New Delhi, the 3rd December, 1983

S.O. 154.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to Shri Jamil Ahmed Pathan, Askali Lime Stone Mine Owner, P.O. Dabadeh, District Kota and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Shri Jamil Ahmed Pathan Askali Lime Stone Mine Owner, R.P. Dabadeh, District Kota are justified? If so, to what relief are the workmen concerned entitled?

DEMANDS

1. An increase of Rs. 80 per month should be given to monthly-rated employees drawing upto Rs. 600 per month and in increase of Rs. 120 per month to those drawing over Rs. 600 per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs. 12 as daily wage and those who work for Rs 180 days in a year be paid Re. 1 per day as attendance (Hazarat) allowance in addition, with effect from 1-10-1982.

3. All stone cutters (Karigars) should be paid at the rate of Rs. 15 per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs. 2 per 100 sq. ft. of stone cutting, with effect from 1-10-1982.

[No. L-29012/16/83-D.III(B)]

का.आ.० 155. :—केंद्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में श्री अतीकुर रहमान, पुत्र श्री गफर भाई मासिक चूना पत्थर खान, मुकाम सुकेत, जिला कोटा से सम्बद्ध एक औद्योगिक विवाद नियोजकों और उसके कर्मचारियों के बीच विद्यमान है;

और केंद्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है।

अतः, केंद्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री महेंद्र भूषण हुंमि, जिनका मुख्यालय जयपुर में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

क्या श्री अतीकुर रहमान, पुत्र श्री गफर भाई, मासिक चूना पत्थर खान मुकाम सुकेत, जिला कोटा द्वारा नियोजित कर्मचारियों की निम्नलिखित मांगें न्यायोचित हैं? यदि हां तो संबंधित कर्मकार किस अनुलोप का हकदार हैं?

मांगें

1. 600 रुपए प्रति माह तक प्राप्त करने वाले मासिक दर कर्मचारियों को 1-10-82 से 80 रु० प्रति माह की बढ़ोतरी तथा 600 रुपए प्रति माह से अधिक प्राप्त करने वाले कर्मचारियों को 120 रुपए प्रति माह की बढ़ोतरी दी जानी चाहिए।

2. ओपन कास्ट माईन में नियोजित सभी कुलियों तथा बेलदारों (अकुशल श्रमिकों) को 1-10-82 से दैनिक मजदूरी के रूप में 12 रुपए तथा एक वर्ष में 180 दिन कार्य करने वाले श्रमिकों को इसके अतिरिक्त 1 रुपया प्रति दिन हाजरी भत्ते के रूप में दिया जाना चाहिए।

3. सभी पत्थर काटने वालों (कारीगरों) को 1-10-82 से प्रति 107 वर्ग फुट पत्थर काटने के लिए 15 रुपए की दर से तथा एक वर्ष में 24,000 वर्ग फुट पत्थर काटने वाले श्रमिकों को इसके अतिरिक्त प्रति 100 वर्ग फुट पत्थर काटने के लिए 2 रुपए की दर से भुगतान किया जाना चाहिए।

[संख्या एल-29012/18/83-डी-3 (बी)]

नन्द लाल, 'अवर सचिव

S.O. 155.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to Shri Atkur Rehman S/o Shri Gafur Bhai, Lime Stone Mine Owner, Mukam Suket, District Kota and their workmen in respect of the matters specified in the Schedule hereto annexed:

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication:

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby constitutes an Industrial Tribunal of which Shri Mahendra Bhushan shall be the Presiding Officer, with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the following demands of workmen employed by Shri Atkur Rehman, S/o Shri Gafur Bhai, Lime Stone Mine Owner, Mukam Suket, District Kota are justified? If so, to what relief are the workmen concerned entitled?

DEMANDS

1. An increase of Rs. 80 per month should be given to monthly-rated employees drawing upto Rs. 600 per month and in increase of Rs. 120 per month to those drawing over Rs. 600 per month, with effect from 1-10-1982.

2. All coolies and beldars (unskilled workers) employed in the Open Cast Mine should be paid Rs. 12 as daily wage and those who work for 180 days in a year be paid Rs. 1 per day as attendance (Hazari) allowance in addition, with effect from 1-10-1982.

3. All stone cutters (Karigars) should be paid at the rate of Rs. 15 per 107 sq. ft. of stone cutting and those who have cut 24,000 sq. ft. of stone in a year be paid in addition Rs. 2 per 100 sq. ft. of stone cutting, with effect from 1-10-1982.

[No. L-29012/18/83-D.III(B)]

NAND LAL, Under Secy.

